
ENGROSSED SUBSTITUTE HOUSE BILL 2078

State of Washington

56th Legislature

1999 Regular Session

By House Committee on Natural Resources (originally sponsored by Representatives Buck, Regala, Eickmeyer and Anderson)

Read first time 03/02/1999.

1 AN ACT Relating to fish and wildlife; amending RCW 75.08.012,
2 75.08.020, 75.08.045, 75.08.055, 75.08.080, 75.08.206, 75.08.208,
3 75.08.230, 75.08.245, 75.10.150, 75.12.230, 75.20.040, 75.20.061,
4 75.20.098, 75.20.100, 75.20.1001, 75.20.104, 75.20.1041, 75.20.106,
5 75.20.130, 75.20.320, 75.24.060, 75.24.065, 75.24.070, 75.24.100,
6 75.24.130, 75.25.092, 75.28.011, 75.28.020, 75.28.034, 75.28.042,
7 75.28.046, 75.28.047, 75.28.048, 75.28.055, 75.28.095, 75.28.110,
8 75.28.113, 75.28.116, 75.28.120, 75.28.125, 75.28.130, 75.28.132,
9 75.28.133, 75.28.280, 75.28.290, 75.28.300, 75.28.323, 75.28.340,
10 75.28.730, 75.28.740, 75.28.760, 75.28.770, 75.28.780, 75.30.021,
11 75.30.050, 75.30.060, 75.30.065, 75.30.070, 75.30.090, 75.30.100,
12 75.30.120, 75.30.125, 75.30.130, 75.30.140, 75.30.170, 75.30.180,
13 75.30.210, 75.30.220, 75.30.250, 75.30.270, 75.30.280, 75.30.290,
14 75.30.300, 75.30.320, 75.30.330, 75.30.350, 75.30.370, 75.30.380,
15 75.30.390, 75.30.420, 75.30.440, 75.30.460, 75.30.470, 75.40.020,
16 75.40.110, 75.44.100, 75.44.120, 75.44.130, 75.44.150, 75.46.010,
17 75.46.040, 75.46.050, 75.46.070, 75.46.080, 75.46.090, 75.46.100,
18 75.46.110, 75.46.120, 75.46.130, 75.48.100, 75.50.080, 75.50.105,
19 75.50.115, 75.50.160, 75.52.020, 75.52.050, 75.52.070, 75.52.100,
20 75.52.110, 75.52.130, 75.52.140, 75.52.160, 75.54.140, 75.54.150,
21 75.56.050, 75.58.010, 75.58.020, 75.58.030, 77.04.010, 77.04.020,

1 77.04.030, 77.04.055, 77.04.080, 77.04.100, 77.08.010, 77.12.010,
2 77.12.035, 77.12.055, 77.12.080, 77.12.090, 77.12.103, 77.12.200,
3 77.12.204, 77.12.210, 77.12.220, 77.12.250, 77.12.315, 77.12.470,
4 77.12.480, 77.12.490, 77.12.610, 77.12.620, 77.12.630, 77.12.655,
5 77.12.830, 77.15.070, 77.15.080, 77.15.090, 77.15.100, 77.15.120,
6 77.15.160, 77.15.300, 77.15.310, 77.15.320, 77.15.350, 77.15.360,
7 77.15.380, 77.15.390, 77.15.470, 77.15.480, 77.15.500, 77.15.530,
8 77.15.540, 77.15.570, 77.15.580, 77.15.620, 77.15.630, 77.15.640,
9 77.15.650, 77.15.710, 77.15.720, 77.16.020, 77.16.360, 77.17.020,
10 77.18.010, 77.21.090, 77.32.014, 77.32.090, 77.32.199, 77.32.250,
11 77.32.350, 77.32.380, and 77.32.420; reenacting and amending RCW
12 75.50.100 and 75.50.110; adding new sections to chapter 77.04 RCW;
13 adding new sections to chapter 77.08 RCW; adding new sections to
14 chapter 77.12 RCW; adding new sections to chapter 77.15 RCW; adding new
15 sections to chapter 77.32 RCW; adding new sections to chapter 77.44
16 RCW; adding new chapters to Title 77 RCW; recodifying RCW 75.08.012,
17 75.08.013, 75.08.020, 75.08.090, 75.08.110, 75.08.025, 75.08.045,
18 75.08.055, 75.08.058, 75.08.065, 75.08.070, 75.08.080, 75.08.120,
19 75.08.160, 75.08.206, 75.08.208, 75.08.230, 75.08.235, 75.08.255,
20 75.08.265, 75.08.285, 75.08.295, 75.08.300, 75.12.010, 75.12.015,
21 75.12.040, 75.12.132, 75.12.140, 75.12.155, 75.12.210, 75.12.230,
22 75.12.390, 75.12.440, 75.12.650, 75.20.005, 75.20.015, 75.20.025,
23 75.20.040, 75.20.050, 75.20.060, 75.20.061, 75.20.090, 75.20.098,
24 75.20.100, 75.20.1001, 75.20.103, 75.20.104, 75.20.1041, 75.20.106,
25 75.20.108, 75.20.110, 75.20.130, 75.20.140, 75.20.150, 75.20.160,
26 75.20.170, 75.20.180, 75.20.190, 75.20.310, 75.20.320, 75.20.325,
27 75.20.330, 75.20.340, 75.20.350, 77.12.830, 75.24.010, 75.24.030,
28 75.24.060, 75.24.065, 75.24.070, 75.24.080, 75.24.100, 75.24.110,
29 75.24.120, 75.24.130, 75.24.140, 75.24.150, 75.28.010, 75.28.011,
30 75.28.014, 75.28.020, 75.28.030, 75.28.034, 75.28.040, 75.28.042,
31 75.28.044, 75.28.045, 75.28.046, 75.28.047, 75.28.048, 75.28.055,
32 75.28.095, 75.28.110, 75.28.113, 75.28.116, 75.28.120, 75.28.125,
33 75.28.130, 75.28.132, 75.28.133, 75.28.280, 75.28.290, 75.28.295,
34 75.28.300, 75.28.302, 75.28.305, 75.28.315, 75.28.323, 75.28.328,
35 75.28.340, 75.28.690, 75.28.700, 75.28.710, 75.28.720, 75.28.730,
36 75.28.740, 75.28.750, 75.28.760, 75.28.770, 75.28.780, 75.28.900,
37 77.32.191, 77.32.197, 77.32.199, 77.32.211, 75.30.015, 75.30.021,
38 75.30.050, 75.30.060, 75.30.065, 75.30.070, 75.30.090, 75.30.100,
39 75.30.120, 75.30.125, 75.30.130, 75.30.140, 75.30.170, 75.30.180,

1 75.30.210, 75.30.220, 75.30.230, 75.30.240, 75.30.250, 75.30.260,
2 75.30.270, 75.30.280, 75.30.290, 75.30.300, 75.30.310, 75.30.320,
3 75.30.330, 75.30.350, 75.30.360, 75.30.370, 75.30.380, 75.30.390,
4 75.30.410, 75.30.420, 75.30.430, 75.30.440, 75.30.450, 75.30.460,
5 75.30.470, 75.30.480, 75.40.010, 75.40.020, 75.40.030, 75.40.040,
6 75.40.100, 75.40.110, 77.17.010, 77.17.020, 77.17.030, 77.12.450,
7 77.12.470, 77.12.480, 77.12.490, 75.40.060, 77.12.430, 77.12.440,
8 75.44.100, 75.44.110, 75.44.120, 75.44.130, 75.44.140, 75.44.150,
9 75.46.005, 75.46.010, 75.46.020, 75.46.030, 75.46.040, 75.46.050,
10 75.46.060, 75.46.070, 75.46.080, 75.46.090, 75.46.100, 75.46.110,
11 75.46.120, 75.46.130, 75.56.050, 75.46.900, 75.48.020, 75.48.040,
12 75.48.050, 75.48.060, 75.48.070, 75.48.080, 75.48.100, 75.48.110,
13 75.50.010, 75.50.020, 75.50.030, 75.50.040, 75.50.060, 75.50.070,
14 75.50.080, 75.50.090, 75.50.100, 75.50.105, 75.50.110, 75.50.115,
15 75.50.125, 75.50.130, 75.50.150, 75.50.160, 75.50.165, 75.50.170,
16 75.50.180, 75.50.190, 75.08.245, 75.08.400, 75.08.410, 75.08.420,
17 75.08.430, 75.08.440, 75.08.450, 75.08.500, 75.08.510, 75.08.520,
18 75.08.530, 75.50.900, 75.52.010, 75.52.020, 75.52.030, 75.52.035,
19 75.52.040, 75.52.050, 75.52.060, 75.52.070, 75.08.047, 75.52.080,
20 75.52.100, 75.52.110, 75.52.120, 75.52.130, 75.52.140, 75.52.150,
21 75.52.160, 75.52.900, 75.54.005, 75.54.010, 75.54.020, 75.54.030,
22 75.54.040, 75.54.050, 75.54.060, 75.54.070, 75.54.080, 75.54.090,
23 75.54.100, 75.54.110, 75.54.120, 75.54.130, 75.54.140, 75.54.150,
24 75.54.900, 75.54.901, 75.56.010, 75.56.020, 75.56.030, 75.56.040,
25 75.56.900, 75.56.905, 75.58.010, 75.58.020, 75.58.030, 75.58.040,
26 75.25.092, 75.10.150, 77.04.100, 77.16.020, 77.16.095, 77.21.080,
27 77.12.080, 77.12.090, 77.12.095, 77.12.103, 77.16.070, 77.16.360,
28 77.21.090, 77.12.530, 77.12.770, 77.12.780, 77.16.010, 77.16.170,
29 77.18.005, 77.18.010, 77.18.020, and 77.18.030; decodifying RCW
30 75.25.901, 75.25.902, 75.30.055, 75.98.005, 75.98.006, 75.98.007, and
31 75.98.030; and repealing RCW 75.08.010, 75.08.011, 75.08.014,
32 75.08.035, 75.08.040, 75.08.274, 75.10.070, 75.10.160, 75.25.090,
33 75.25.160, 75.25.210, 75.28.012, 75.28.335, 75.30.160, 77.08.070,
34 77.12.101, 77.16.210, 77.16.220, 77.16.290, 77.16.340, 77.16.350,
35 77.21.020, 77.21.030, 77.21.070, 77.32.005, 77.32.060, and 77.44.020.

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

1 chairs of the committees on natural resources (~~((and ways and means))~~) of
2 the senate and house of representatives, the senate ways and means
3 committee, and the house of representatives appropriations committee,
4 including one copy to the staff of each of the committees, to reflect
5 the previous fiscal period. The format of the report shall be similar
6 to reports issued by the department from 1964-1970 and the report shall
7 include, but not be limited to, descriptions of all department
8 activities including: Revenues generated, program costs, capital
9 expenditures, personnel, special projects, new and ongoing research,
10 environmental controls, cooperative projects, intergovernmental
11 agreements, and outlines of ongoing litigation, recent court decisions
12 and orders on major issues with the potential for state liability. The
13 report shall describe the status of the resource and its recreational,
14 commercial, and tribal utilization. The report (~~((shall be given to the~~
15 ~~house and senate committees on ways and means and the house and senate~~
16 ~~committees on natural resources and))~~) shall be made available to the
17 public.

18 **Sec. 3.** RCW 75.08.045 and 1995 1st sp.s. c 2 s 24 are each amended
19 to read as follows:

20 The (~~((commission))~~) director may accept money or real property from
21 persons under conditions requiring the use of the property or money for
22 the protection, rehabilitation, preservation, or conservation of the
23 state wildlife, food fish, and shellfish resources, or in settlement of
24 claims for damages to wildlife, food fish, and shellfish resources.
25 The (~~((commission))~~) director shall only accept real property useful for
26 the protection, rehabilitation, preservation, or conservation of these
27 fisheries resources.

28 **Sec. 4.** RCW 75.08.055 and 1995 1st sp.s. c 2 s 8 are each amended
29 to read as follows:

30 (1) The commission may enter into agreements with and receive funds
31 from the United States for the construction, maintenance, and operation
32 of fish cultural stations, laboratories, and devices in the Columbia
33 River basin for improvement of feeding and spawning conditions for
34 fish, for the protection of migratory fish from irrigation projects and
35 for facilitating free migration of fish over obstructions.

36 (2) The (~~((commission))~~) director and the department may acquire by
37 gift, purchase, lease, easement, or condemnation the use of lands where

1 the construction or improvement is to be carried on by the United
2 States.

3 **Sec. 5.** RCW 75.08.080 and 1995 1st sp.s. c 2 s 11 are each amended
4 to read as follows:

5 (1) The commission may adopt, amend, or repeal rules as follows:

6 (a) Specifying the times when the taking of wildlife, food fish, or
7 shellfish is lawful or unlawful.

8 (b) Specifying the areas and waters in which the taking and
9 possession of wildlife, food fish, or shellfish is lawful or unlawful.

10 (c) Specifying and defining the gear, appliances, or other
11 equipment and methods that may be used to take wildlife, food fish, or
12 shellfish, and specifying the times, places, and manner in which the
13 equipment may be used or possessed.

14 (d) Regulating the possession, disposal, landing, and sale of
15 wildlife, food fish, or shellfish within the state, whether acquired
16 within or without the state.

17 (e) Regulating the prevention and suppression of diseases and pests
18 affecting wildlife, food fish, or shellfish.

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

22 (g) Specifying the statistical and biological reports required from
23 fishermen, dealers, boathouses, or processors of wildlife, food fish,
24 or shellfish.

25 (h) Classifying species of marine and freshwater life as wildlife,
26 food fish, or shellfish.

27 (i) Classifying the species of wildlife, food fish, and shellfish
28 that may be used for purposes other than human consumption.

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

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

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

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

5 **Sec. 6.** RCW 75.08.206 and 1983 1st ex.s. c 46 s 20 are each
6 amended to read as follows:

7 The director shall provide compensation insurance for fisheries
8 patrol officers, insuring these employees against injury or death in
9 the performance of enforcement duties not covered under the workers'
10 compensation act of the state. The beneficiaries and the compensation
11 and benefits under the compensation insurance shall be the same as
12 provided in chapter 51.32 RCW, and the compensation insurance also
13 shall provide for medical aid and hospitalization to the extent and
14 amount as provided in RCW 51.36.010 and 51.36.020.

15 The recodification of this section into Title 77 RCW does not make
16 any current or former employees eligible for compensation or benefits
17 under this section who were not otherwise eligible under this section
18 before the recodification.

19 **Sec. 7.** RCW 75.08.208 and 1983 1st ex.s. c 46 s 22 are each
20 amended to read as follows:

21 The director shall relieve from active duty fisheries patrol
22 officers who are injured in the performance of their official duties to
23 such an extent as to be incapable of active service. While relieved
24 from active duty, the employees shall receive one-half of their salary
25 less any compensation received through the provisions of RCW 41.40.200,
26 41.40.220, and 75.08.206.

27 The recodification of this section into Title 77 RCW does not make
28 any current or former employees eligible for compensation or benefits
29 under this section who were not otherwise eligible under this section
30 before the recodification.

31 **Sec. 8.** RCW 75.08.230 and 1996 c 267 s 3 are each amended to read
32 as follows:

33 (1) Except as provided in this ((section)) title, state and county
34 officers receiving the following moneys shall deposit them in the state
35 general fund:

1 (a) The sale of commercial licenses required under this title,
2 except for licenses issued under chapter 77.32 RCW; and

3 ~~(b) ((The sale of property seized or confiscated under this title;~~

4 ~~(c) Fines and forfeitures collected under this title;~~

5 ~~(d) The sale of real or personal property held for department~~
6 ~~purposes;~~

7 ~~(e) Rentals or concessions of the department;~~

8 ~~(f)) Moneys received for damages to food fish, shellfish or~~
9 ~~department property((; and~~

10 ~~(g) Gifts)).~~

11 (2) The director shall make weekly remittances to the state
12 treasurer of moneys collected by the department.

13 (3) All fines and forfeitures collected or assessed by a district
14 court for a violation of this title or rule of the department shall be
15 remitted as provided in chapter 3.62 RCW.

16 (4) Proceeds from the sale of food fish or shellfish taken in test
17 fishing conducted by the department, to the extent that these proceeds
18 exceed the estimates in the budget approved by the legislature, may be
19 allocated as unanticipated receipts under RCW 43.79.270 to reimburse
20 the department for unanticipated costs for test fishing operations in
21 excess of the allowance in the budget approved by the legislature.

22 (5) Proceeds from the sale of salmon carcasses and salmon eggs from
23 state general funded hatcheries by the department of general
24 administration shall be deposited in the regional fisheries enhancement
25 group account established in RCW 75.50.100 (as recodified by this act).

26 (6) Moneys received by the commission under RCW 75.08.045 (as
27 recodified by this act), to the extent these moneys exceed estimates in
28 the budget approved by the legislature, may be allocated as
29 unanticipated receipts under RCW 43.79.270. Allocations under this
30 subsection shall be made only for the specific purpose for which the
31 moneys were received, unless the moneys were received in settlement of
32 a claim for damages to food fish or shellfish, in which case the moneys
33 may be expended for the conservation of these resources.

34 (7) Proceeds from the sale of herring spawn on kelp fishery
35 licenses by the department, to the extent those proceeds exceed
36 estimates in the budget approved by the legislature, may be allocated
37 as unanticipated receipts under RCW 43.79.270. Allocations under this
38 subsection shall be made only for herring management, enhancement, and
39 enforcement.

1 **Sec. 9.** RCW 75.08.245 and 1988 c 115 s 1 are each amended to read
2 as follows:

3 The department may supply, at a reasonable charge, surplus salmon
4 eggs to a person for use in the cultivation of salmon. The department
5 shall not intentionally create a surplus of salmon to provide eggs for
6 sale. The department shall only sell salmon eggs from stocks that are
7 not suitable for salmon population rehabilitation or enhancement in
8 state waters in Washington. All sales or transfers shall be consistent
9 with the department's egg transfer and aquaculture disease control
10 regulations as now existing or hereafter amended. Prior to department
11 determination that eggs of a salmon stock are surplus and available for
12 sale, the department shall assess the productivity of each watershed
13 that is suitable for receiving eggs.

14 (~~The salmon enhancement advisory council, created in RCW
15 75.48.120, shall consider egg sales at each meeting.~~)

16 **Sec. 10.** RCW 75.10.150 and 1996 c 267 s 14 are each amended to
17 read as follows:

18 Since violation of the rules of the department relating to the
19 accounting of the commercial harvest of food fish and shellfish result
20 in damage to the resources of the state, liability for damage to food
21 fish and shellfish resources is imposed on a wholesale fish dealer for
22 violation of a provision in chapter 75.28 RCW (as recodified by this
23 act) or a rule of the department related to the accounting of the
24 commercial harvest of food fish and shellfish and shall be for the
25 actual damages or for damages imposed as follows:

26 (1) For violation of rules requiring the timely presentation to the
27 department of documents relating to the accounting of commercial
28 harvest, fifty dollars for each of the first fifteen documents in a
29 series and ten dollars for each subsequent document in the same series.
30 If documents relating to the accounting of commercial harvest of food
31 fish and shellfish are lost or destroyed and the wholesale dealer
32 notifies the department in writing within seven days of the loss or
33 destruction, the director shall waive the requirement for timely
34 presentation of the documents.

35 (2) For violation of rules requiring accurate and legible
36 information relating to species, value, harvest area, or amount of
37 harvest, twenty-five dollars for each of the first five violations of

1 this subsection following July 28, 1985, and fifty dollars for each
2 violation after the first five violations.

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

7 (4) For other violations of rules relating to the accounting of the
8 commercial harvest, fifty dollars for each separate violation.

9 **Sec. 11.** RCW 75.12.230 and 1998 c 190 s 81 are each amended to
10 read as follows:

11 Within the waters described in RCW 75.12.210 (as recodified by this
12 act), a person shall not transport or possess salmon on board a vessel
13 carrying fishing gear of a type other than troll lines or angling gear,
14 unless accompanied by a certificate issued by a state or country
15 showing that the salmon have been lawfully taken within the territorial
16 waters of the state or country.

17 **Sec. 12.** RCW 75.20.040 and 1998 c 190 s 85 are each amended to
18 read as follows:

19 A diversion device used for conducting water from a lake, river, or
20 stream for any purpose shall be equipped at or near its intake with a
21 fish guard approved by the director to prevent the passage of fish into
22 the diversion device. A person shall not divert water from a lake,
23 river, or stream unless the diversion device is equipped with the fish
24 guard. The fish guard shall be maintained at all times when water is
25 taken into the diversion device. The fish guards shall be installed at
26 places and times prescribed by the director upon thirty days' notice to
27 the owner of the diversion device.

28 (~~Each day the diversion device is not equipped with an approved~~
29 ~~fish guard is a separate offense.)) If within thirty days after notice
30 to equip a diversion device the owner fails to do so, the director may
31 take possession of the diversion device and close the device until it
32 is properly equipped. Expenses incurred by the department constitute
33 the value of a lien upon the diversion device and upon the real and
34 personal property of the owner. Notice of the lien shall be filed and
35 recorded in the office of the county auditor of the county in which the
36 action is taken.~~

1 **Sec. 13.** RCW 75.20.061 and 1983 1st ex.s. c 46 s 73 are each
2 amended to read as follows:

3 If the director determines that a fishway or fish guard described
4 in RCW 75.20.040 and 75.20.060 (as recodified by this act) and in
5 existence on September 1, 1963, is inadequate, in addition to other
6 authority granted in this chapter, the director may remove, relocate,
7 reconstruct, or modify the device, without cost to the owner. The
8 director shall not materially modify the amount of flow of water
9 through the device. After the department has completed the
10 improvements, the fishways and fish guards shall be operated and
11 maintained at the expense of the owner in accordance with RCW 75.20.040
12 and 75.20.060 (as recodified by this act).

13 **Sec. 14.** RCW 75.20.098 and 1997 c 424 s 6 are each amended to read
14 as follows:

15 When reviewing a mitigation plan under RCW 75.20.100 or 75.20.103
16 (as recodified by this act), the department shall, at the request of
17 the project proponent, follow the guidance contained in RCW 90.74.005
18 through 90.74.030.

19 **Sec. 15.** RCW 75.20.100 and 1998 c 190 s 87 are each amended to
20 read as follows:

21 (1) In the event that any person or government agency desires to
22 construct any form of hydraulic project or perform other work that will
23 use, divert, obstruct, or change the natural flow or bed of any of the
24 salt or fresh waters of the state, such person or government agency
25 shall, before commencing construction or work thereon and to ensure the
26 proper protection of fish life, secure the approval of the department
27 as to the adequacy of the means proposed for the protection of fish
28 life. This approval shall not be unreasonably withheld.

29 (2)(a) Except as provided in RCW 75.20.1001 (as recodified by this
30 act), the department shall grant or deny approval of a standard permit
31 within forty-five calendar days of the receipt of a complete
32 application and notice of compliance with any applicable requirements
33 of the state environmental policy act, made in the manner prescribed in
34 this section.

35 (b) The applicant may document receipt of application by filing in
36 person or by registered mail. A complete application for approval
37 shall contain general plans for the overall project, complete plans and

1 specifications of the proposed construction or work within the mean
2 higher high water line in salt water or within the ordinary high water
3 line in fresh water, and complete plans and specifications for the
4 proper protection of fish life.

5 (c) The forty-five day requirement shall be suspended if:

6 (i) After ten working days of receipt of the application, the
7 applicant remains unavailable or unable to arrange for a timely field
8 evaluation of the proposed project;

9 (ii) The site is physically inaccessible for inspection; or

10 (iii) The applicant requests delay. Immediately upon determination
11 that the forty-five day period is suspended, the department shall
12 notify the applicant in writing of the reasons for the delay.

13 (d) For purposes of this section, "standard permit" means a written
14 permit issued by the department when the conditions under subsections
15 (3) and (5)(b) of this section are not met.

16 (3)(a) The department may issue an expedited written permit in
17 those instances where normal permit processing would result in
18 significant hardship for the applicant or unacceptable damage to the
19 environment. In cases of imminent danger, the department shall issue
20 an expedited written permit, upon request, for work to repair existing
21 structures, move obstructions, restore banks, protect property, or
22 protect fish resources. Expedited permit requests require a complete
23 written application as provided in subsection (2)(b) of this section
24 and shall be issued within fifteen calendar days of the receipt of a
25 complete written application. Approval of an expedited permit is valid
26 for up to sixty days from the date of issuance.

27 (b) For the purposes of this subsection, "imminent danger" means a
28 threat by weather, water flow, or other natural conditions that is
29 likely to occur within sixty days of a request for a permit
30 application.

31 (c) The department may not require the provisions of the state
32 environmental policy act, chapter 43.21C RCW, to be met as a condition
33 of issuing a permit under this subsection.

34 (d) The department or the county legislative authority may
35 determine if an imminent danger exists. The county legislative
36 authority shall notify the department, in writing, if it determines
37 that an imminent danger exists.

38 (4) Approval of a standard permit is valid for a period of up to
39 five years from date of issuance. The permittee must demonstrate

1 substantial progress on construction of that portion of the project
2 relating to the approval within two years of the date of issuance. If
3 the department denies approval, the department shall provide the
4 applicant, in writing, a statement of the specific reasons why and how
5 the proposed project would adversely affect fish life. Protection of
6 fish life shall be the only ground upon which approval may be denied or
7 conditioned. Chapter 34.05 RCW applies to any denial of project
8 approval, conditional approval, or requirements for project
9 modification upon which approval may be contingent.

10 (5)(a) In case of an emergency arising from weather or stream flow
11 conditions or other natural conditions, the department, through its
12 authorized representatives, shall issue immediately, upon request, oral
13 approval for removing any obstructions, repairing existing structures,
14 restoring stream banks, or to protect property threatened by the stream
15 or a change in the stream flow without the necessity of obtaining a
16 written approval prior to commencing work. Conditions of an oral
17 approval to protect fish life shall be established by the department
18 and reduced to writing within thirty days and complied with as provided
19 for in this section. Oral approval shall be granted immediately, upon
20 request, for a stream crossing during an emergency situation.

21 (b) For purposes of this section and RCW 75.20.103 (as recodified
22 by this act), "emergency" means an immediate threat to life, the
23 public, property, or of environmental degradation.

24 (c) The department or the county legislative authority may declare
25 and continue an emergency when one or more of the criteria under (b) of
26 this subsection are met. The county legislative authority shall
27 immediately notify the department if it declares an emergency under
28 this subsection.

29 (6) The department shall, at the request of a county, develop five-
30 year maintenance approval agreements, consistent with comprehensive
31 flood control management plans adopted under the authority of RCW
32 86.12.200, or other watershed plan approved by a county legislative
33 authority, to allow for work on public and private property for bank
34 stabilization, bridge repair, removal of sand bars and debris, channel
35 maintenance, and other flood damage repair and reduction activity under
36 agreed-upon conditions and times without obtaining permits for specific
37 projects.

38 (7) This section shall not apply to the construction of any form of
39 hydraulic project or other work which diverts water for agricultural

1 irrigation or stock watering purposes authorized under or recognized as
2 being valid by the state's water codes, or when such hydraulic project
3 or other work is associated with streambank stabilization to protect
4 farm and agricultural land as defined in RCW 84.34.020. These
5 irrigation or stock watering diversion and streambank stabilization
6 projects shall be governed by RCW 75.20.103 (as recodified by this
7 act).

8 A landscape management plan approved by the department and the
9 department of natural resources under RCW 76.09.350(2), shall serve as
10 a hydraulic project approval for the life of the plan if fish are
11 selected as one of the public resources for coverage under such a plan.

12 (8) For the purposes of this section and RCW 75.20.103 (as
13 recodified by this act), "bed" means the land below the ordinary high
14 water lines of state waters. This definition does not include
15 irrigation ditches, canals, storm water run-off devices, or other
16 artificial watercourses except where they exist in a natural
17 watercourse that has been altered by man.

18 (9) The phrase "to construct any form of hydraulic project or
19 perform other work" does not include the act of driving across an
20 established ford. Driving across streams or on wetted stream beds at
21 areas other than established fords requires approval. Work within the
22 ordinary high water line of state waters to construct or repair a ford
23 or crossing requires approval.

24 **Sec. 16.** RCW 75.20.1001 and 1993 sp.s. c 2 s 31 are each amended
25 to read as follows:

26 The department shall process hydraulic project applications
27 submitted under RCW 75.20.100 or 75.20.103 (as recodified by this act)
28 within thirty days of receipt of the application. This requirement is
29 only applicable for the repair and reconstruction of legally
30 constructed dikes, seawalls, and other flood control structures damaged
31 as a result of flooding or windstorms that occurred in November and
32 December 1990.

33 **Sec. 17.** RCW 75.20.104 and 1993 sp.s. c 2 s 33 are each amended to
34 read as follows:

35 Whenever the placement of woody debris is required as a condition
36 of a hydraulic permit approval issued pursuant to RCW 75.20.100 or
37 75.20.103 (as recodified by this act), the department, upon request,

1 shall invite comment regarding that placement from the local
2 governmental authority, affected tribes, affected federal and state
3 agencies, and the project applicant.

4 **Sec. 18.** RCW 75.20.1041 and 1993 sp.s. c 2 s 34 are each amended
5 to read as follows:

6 The department and the department of ecology will work
7 cooperatively with the United States army corps of engineers to develop
8 a memorandum of agreement outlining dike vegetation management
9 guidelines so that dike owners are eligible for coverage under P.L.
10 84-99, and state requirements established pursuant to RCW 75.20.100 and
11 75.20.103 (as recodified by this act) are met.

12 **Sec. 19.** RCW 75.20.106 and 1993 sp.s. c 2 s 35 are each amended to
13 read as follows:

14 The department may levy civil penalties of up to one hundred
15 dollars per day for violation of any provisions of RCW 75.20.100 or
16 75.20.103 (as recodified by this act). The penalty provided shall be
17 imposed by notice in writing, either by certified mail or personal
18 service to the person incurring the penalty, from the director or the
19 director's designee describing the violation. Any person incurring any
20 penalty under this chapter may appeal the same under chapter 34.05 RCW
21 to the director. Appeals shall be filed within thirty days of receipt
22 of notice imposing any penalty. The penalty imposed shall become due
23 and payable thirty days after receipt of a notice imposing the penalty
24 unless an appeal is filed. Whenever an appeal of any penalty incurred
25 under this chapter is filed, the penalty shall become due and payable
26 only upon completion of all review proceedings and the issuance of a
27 final order confirming the penalty in whole or in part.

28 If the amount of any penalty is not paid within thirty days after
29 it becomes due and payable the attorney general, upon the request of
30 the director shall bring an action in the name of the state of
31 Washington in the superior court of Thurston county or of any county in
32 which such violator may do business, to recover such penalty. In all
33 such actions the procedure and rules of evidence shall be the same as
34 an ordinary civil action. All penalties recovered under this section
35 shall be paid into the state's general fund.

1 **Sec. 20.** RCW 75.20.130 and 1996 c 276 s 2 are each amended to read
2 as follows:

3 (1) There is hereby created within the environmental hearings
4 office under RCW 43.21B.005 the hydraulic appeals board of the state of
5 Washington.

6 (2) The hydraulic appeals board shall consist of three members:
7 The director of the department of ecology or the director's designee,
8 the director of the department of agriculture or the director's
9 designee, and the director or the director's designee of the department
10 whose action is appealed under subsection (6) of this section. A
11 decision must be agreed to by at least two members of the board to be
12 final.

13 (3) The board may adopt rules necessary for the conduct of its
14 powers and duties or for transacting other official business.

15 (4) The board shall make findings of fact and prepare a written
16 decision in each case decided by it, and that finding and decision
17 shall be effective upon being signed by two or more board members and
18 upon being filed at the hydraulic appeals board's principal office, and
19 shall be open to public inspection at all reasonable times.

20 (5) The board has exclusive jurisdiction to hear appeals arising
21 from the approval, denial, conditioning, or modification of a hydraulic
22 approval issued by the department: (a) Under the authority granted in
23 RCW 75.20.103 (as recodified by this act) for the diversion of water
24 for agricultural irrigation or stock watering purposes or when
25 associated with streambank stabilization to protect farm and
26 agricultural land as defined in RCW 84.34.020; or (b) under the
27 authority granted in RCW 75.20.190 (as recodified by this act) for off-
28 site mitigation proposals.

29 (6)(a) Any person aggrieved by the approval, denial, conditioning,
30 or modification of a hydraulic approval pursuant to RCW 75.20.103 (as
31 recodified by this act) may seek review from the board by filing a
32 request for the same within thirty days of notice of the approval,
33 denial, conditioning, or modification of such approval.

34 (b) The review proceedings authorized in (a) of this subsection are
35 subject to the provisions of chapter 34.05 RCW pertaining to procedures
36 in adjudicative proceedings.

37 **Sec. 21.** RCW 75.20.320 and 1995 c 328 s 1 are each amended to read
38 as follows:

1 The department may not require mitigation for adverse impacts on
2 fish life or habitat that occurred at the time a wetland was filled, if
3 the wetland was filled under the provisions of RCW 75.20.300 (as
4 recodified by this act).

5 **Sec. 22.** RCW 75.24.060 and 1998 c 245 s 152 are each amended to
6 read as follows:

7 It is the policy of the state to improve state oyster reserves so
8 that they are productive and yield a revenue sufficient for their
9 maintenance. In fixing the price of oysters and other shellfish sold
10 from the reserves, the director shall take into consideration this
11 policy. It is also the policy of the state to maintain the oyster
12 reserves to furnish shellfish to growers and processors and to stock
13 public beaches.

14 Shellfish may be harvested from state oyster reserves for personal
15 use as prescribed by rule of the director.

16 The ((department)) director shall periodically inventory the state
17 oyster reserves and assign the reserve lands into management
18 categories:

- 19 (1) Native Olympia oyster broodstock reserves;
- 20 (2) Commercial shellfish harvesting zones;
- 21 (3) Commercial shellfish propagation zones designated for long-term
22 leasing to private aquaculturists;
- 23 (4) Public recreational shellfish harvesting zones;
- 24 (5) Unproductive land.

25 The ((department)) director shall manage each category of oyster
26 reserve land to maximize the sustained yield production of shellfish
27 consistent with the purpose for establishment of each management
28 category.

29 The ((department)) commission shall develop an oyster reserve
30 management plan, to include recommendations for leasing reserve lands,
31 in coordination with the shellfish industry, by January 1, 1986.

32 The director shall protect, reseed, improve the habitat of, and
33 replant state oyster reserves ((and)). The director shall also issue
34 cultch permits and oyster reserve fishery licenses.

35 **Sec. 23.** RCW 75.24.065 and 1993 sp.s. c 2 s 40 are each amended to
36 read as follows:

1 The legislature finds that current environmental and economic
2 conditions warrant a renewal of the state's historical practice of
3 actively cultivating and managing its oyster reserves in Puget Sound to
4 produce the state's native oyster, the Olympia oyster. The
5 ((department)) director shall reestablish dike cultivated production of
6 Olympia oysters on such reserves on a trial basis as a tool for
7 planning more comprehensive cultivation by the state.

8 **Sec. 24.** RCW 75.24.070 and 1983 1st ex.s. c 46 s 82 are each
9 amended to read as follows:

10 The director shall determine the time, place, and method of sale of
11 oysters and other shellfish from state oyster reserves. Any person who
12 commercially takes shellfish from state oyster reserves must possess an
13 oyster reserve fishery license issued by the director pursuant to RCW
14 75.28.290 (as recodified by this act). Any person engaged in the
15 commercial cultching of oysters on state oyster reserves must possess
16 an oyster cultch permit issued by the director pursuant to RCW
17 75.28.295 (as recodified by this act).

18 To maintain local communities and industries and to restrain the
19 formation of monopolies in the industry, the director shall determine
20 the number of bushels which shall be sold to a person. When the
21 shellfish are sold at public auction, the director may reject any and
22 all bids.

23 **Sec. 25.** RCW 75.24.100 and 1998 c 190 s 91 are each amended to
24 read as follows:

25 (1) The ((department)) director may not authorize a person to take
26 geoduck clams for commercial purposes outside the harvest area
27 designated in a current department of natural resources geoduck
28 harvesting agreement issued under RCW 79.96.080. The ((department))
29 director may not authorize commercial harvest of geoduck clams from
30 bottoms that are shallower than eighteen feet below mean lower low
31 water (0.0. ft.), or that lie in an area bounded by the line of
32 ordinary high tide (mean high tide) and a line two hundred yards
33 seaward from and parallel to the line of ordinary high tide. This
34 section does not apply to the harvest of private sector cultured
35 aquatic products as defined in RCW 15.85.020.

36 (2) Commercial geoduck harvesting shall be done with a hand-held,
37 manually operated water jet or suction device guided and controlled

1 from under water by a diver. Periodically, the ((~~commission~~)) director
2 shall determine the effect of each type or unit of gear upon the
3 geoduck population or the substrate they inhabit. The ((~~commission~~))
4 director may require modification of the gear or stop its use if it is
5 being operated in a wasteful or destructive manner or if its operation
6 may cause permanent damage to the bottom or adjacent shellfish
7 populations.

8 **Sec. 26.** RCW 75.24.130 and 1995 1st sp.s. c 2 s 30 are each
9 amended to read as follows:

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

16 **Sec. 27.** RCW 75.25.092 and 1998 c 191 s 2 are each amended to read
17 as follows:

18 (1) A personal use shellfish and seaweed license is required for
19 all persons other than residents or nonresidents under fifteen years of
20 age to fish for, take, dig for, or possess seaweed or shellfish for
21 personal use from state waters or offshore waters including national
22 park beaches.

23 (2) The fees for annual personal use shellfish and seaweed licenses
24 are:

25 (a) For a resident fifteen years of age or older, seven dollars;

26 (b) For a nonresident fifteen years of age or older, twenty
27 dollars; and

28 (c) For a senior, five dollars.

29 (3) The personal use shellfish and seaweed license shall be visible
30 on the licensee while harvesting shellfish or seaweed.

31 **Sec. 28.** RCW 75.28.011 and 1997 c 418 s 1 are each amended to read
32 as follows:

33 (1) Unless otherwise provided in this title, a license issued under
34 this chapter is not transferable from the license holder to any other
35 person.

1 (2) The following restrictions apply to transfers of commercial
2 fishery licenses, salmon delivery licenses, and salmon charter licenses
3 that are transferable between license holders:

4 (a) The license holder shall surrender the previously issued
5 license to the department.

6 (b) The department shall complete no more than one transfer of the
7 license in any seven-day period.

8 (c) The fee to transfer a license from one license holder to
9 another is:

10 (i) The same as the resident license renewal fee if the license is
11 not limited under chapter 75.30 RCW (as recodified by this act);

12 (ii) Three and one-half times the resident renewal fee if the
13 license is not a commercial salmon license and the license is limited
14 under chapter 75.30 RCW (as recodified by this act);

15 (iii) Fifty dollars if the license is a commercial salmon license
16 and is limited under chapter 75.30 RCW (as recodified by this act);

17 (iv) Five hundred dollars if the license is a Dungeness crab-
18 coastal fishery license; or

19 (v) If a license is transferred from a resident to a nonresident,
20 an additional fee is assessed that is equal to the difference between
21 the resident and nonresident license fees at the time of transfer, to
22 be paid by the transferee.

23 (3) A commercial license that is transferable under this title
24 survives the death of the holder. Though such licenses are not
25 personal property, they shall be treated as analogous to personal
26 property for purposes of inheritance and intestacy. Such licenses are
27 subject to state laws governing wills, trusts, estates, intestate
28 succession, and community property, except that such licenses are
29 exempt from claims of creditors of the estate and tax liens. The
30 surviving spouse, estate, or beneficiary of the estate may apply for a
31 renewal of the license. There is no fee for transfer of a license from
32 a license holder to the license holder's surviving spouse or estate, or
33 to a beneficiary of the estate.

34 **Sec. 29.** RCW 75.28.020 and 1994 c 244 s 1 are each amended to read
35 as follows:

36 (1) Except as otherwise provided in this title, a person (~~as~~
37 ~~defined in RCW 75.08.011~~) may hold a commercial license established by
38 this chapter.

1 (2) Except as otherwise provided in this title, an individual may
2 hold a commercial license only if the individual is sixteen years of
3 age or older and a bona fide resident of the United States.

4 (3) A corporation may hold a commercial license only if it is
5 authorized to do business in this state.

6 (4) No person may hold a limited-entry license unless the person
7 meets the qualifications that this title establishes for the license.

8 (5) The residency requirements in subsection (2) of this section do
9 not apply to holders of nonsalmon delivery licenses.

10 **Sec. 30.** RCW 75.28.034 and 1995 c 227 s 1 are each amended to read
11 as follows:

12 If, for any reason, the department does not allow any opportunity
13 for a commercial fishery during a calendar year, the ~~((department))~~
14 director shall either: (1) Waive the requirement to obtain a license
15 for that commercial fishery for that year; or (2) refund applicable
16 license fees upon return of the license.

17 **Sec. 31.** RCW 75.28.042 and 1997 c 58 s 882 are each amended to
18 read as follows:

19 (1) The department shall immediately suspend the license of a
20 person who has been certified pursuant to RCW 74.20A.320 by the
21 department of social and health services as a person who is not in
22 compliance with a support order or a residential or visitation order.

23 (2) A listing on the department of licensing's data base that an
24 individual's license is currently suspended pursuant to RCW
25 46.20.291~~((+7))~~ (8) shall be prima facie evidence that the individual
26 is in noncompliance with a support order ~~((or residential or visitation
27 order))~~. Presentation of a written release issued by the department of
28 social and health services or a court stating that the person is in
29 compliance with an order shall serve as proof of compliance.

30 **Sec. 32.** RCW 75.28.046 and 1998 c 267 s 2 are each amended to read
31 as follows:

32 This section applies to all commercial fishery licenses and
33 delivery licenses, except for whiting--Puget Sound fishery licenses and
34 emergency salmon delivery licenses.

35 (1) The license holder may engage in the activity authorized by a
36 license subject to this section. With the exception of Dungeness

1 crab--coastal fishery class B licensees licensed under RCW 75.30.350(4)
2 (as recodified by this act), the holder of a license subject to this
3 section may also designate up to two alternate operators for the
4 license. Dungeness crab--coastal fishery class B licensees may not
5 designate alternate operators. A person designated as an alternate
6 operator must possess an alternate operator license issued under RCW
7 75.28.048 (as recodified by this act).

8 (2) The fee to change the alternate operator designation is twenty-
9 two dollars.

10 **Sec. 33.** RCW 75.28.047 and 1998 c 267 s 3 are each amended to read
11 as follows:

12 (1) Only the license holder and any alternate operators designated
13 on the license may sell or deliver food fish or shellfish under a
14 commercial fishery license or delivery license. A commercial fishery
15 license or delivery license authorizes no taking or delivery of food
16 fish or shellfish unless the license holder or an alternate operator
17 designated on the license is present or aboard the vessel.

18 (2) Notwithstanding RCW 75.28.010(1)(c) (as recodified by this
19 act), an alternate operator license is not required for an individual
20 to operate a vessel as a charter boat.

21 **Sec. 34.** RCW 75.28.048 and 1998 c 267 s 4 are each amended to read
22 as follows:

23 (1) A person who holds a commercial fishery license or a delivery
24 license may operate the vessel designated on the license. A person who
25 is not the license holder may operate the vessel designated on the
26 license only if:

27 (a) The person holds an alternate operator license issued by the
28 director; and

29 (b) The person is designated as an alternate operator on the
30 underlying commercial fishery license or delivery license under RCW
31 75.28.046 (as recodified by this act).

32 (2) Only an individual at least sixteen years of age may hold an
33 alternate operator license.

34 (3) No individual may hold more than one alternate operator
35 license. An individual who holds an alternate operator license may be
36 designated as an alternate operator on an unlimited number of

1 commercial fishery licenses or delivery licenses under RCW 75.28.046
2 (as recodified by this act).

3 (4) An individual who holds two Dungeness crab--Puget Sound fishery
4 licenses may operate the licenses on one vessel if the vessel owner or
5 alternate operator is on the vessel. The department shall allow a
6 license holder to operate up to one hundred crab pots for each license.

7 (5) As used in this section, to "operate" means to control the
8 deployment or removal of fishing gear from state waters while aboard a
9 vessel or to operate a vessel delivering food fish or shellfish taken
10 in offshore waters to a port within the state.

11 **Sec. 35.** RCW 75.28.055 and 1997 c 421 s 1 are each amended to read
12 as follows:

13 The (~~fish and wildlife commission~~) director may, by rule,
14 increase the number of alternate operators beyond the level authorized
15 by RCW 75.28.030 and 75.28.046 (as recodified by this act) for a
16 commercial fishery license, delivery license, or charter license.

17 **Sec. 36.** RCW 75.28.095 and 1998 c 190 s 95 are each amended to
18 read as follows:

19 (1) The director shall issue the charter licenses and angler
20 permits listed in this section according to the requirements of this
21 title. The licenses and permits and their annual fees and surcharges
22 are:

License or Permit	Annual Fee		Governing Section
	Resident	Nonresident	
(a) Nonsalmon charter	\$225	\$375	
(b) Salmon charter	\$380	\$685	RCW 75.30.065 <u>(as recodified by this act)</u>
	(plus \$100)	(plus \$100)	
(c) Salmon angler	\$ 0	\$ 0	RCW 75.30.070 <u>(as recodified by this act)</u>
(d) Salmon roe	\$ 95	\$ 95	RCW 75.28.690 <u>(as recodified by this act)</u>

34 (2) A salmon charter license designating a vessel is required to
35 operate a charter boat to take salmon, other food fish, and shellfish.

1 The director may issue a salmon charter license only to a person who
2 meets the qualifications of RCW 75.30.065 (as recodified by this act).

3 (3) A nonsalmon charter license designating a vessel is required to
4 operate a charter boat to take food fish other than salmon and
5 shellfish. As used in this subsection, "food fish" does not include
6 salmon.

7 (4) "Charter boat" means a vessel from which persons may, for a
8 fee, fish for food fish or shellfish for personal use, and that brings
9 food fish or shellfish into state ports or brings food fish or
10 shellfish taken from state waters into United States ports. The
11 director may specify by rule when a vessel is a "charter boat" within
12 this definition. "Charter boat" does not mean a vessel used by a guide
13 for clients fishing for food fish for personal use in freshwater
14 rivers, streams, and lakes, other than Lake Washington or that part of
15 the Columbia River below the bridge at Longview.

16 (5) A charter boat licensed in Oregon may fish without a Washington
17 charter license under the same rules as Washington charter boat
18 operators in ocean waters within the jurisdiction of Washington state
19 from the southern border of the state of Washington to Leadbetter
20 Point, as long as the Oregon vessel does not land at any Washington
21 port with the purpose of taking on or discharging passengers. The
22 provisions of this subsection shall be in effect as long as the state
23 of Oregon has reciprocal laws and regulations.

24 (6) A salmon charter license under subsection (1)(b) of this
25 section may be renewed if the license holder notifies the department by
26 May 1st of that year that he or she will not participate in the fishery
27 during that calendar year. The license holder must pay the one
28 hundred-dollar enhancement surcharge, plus a fifteen-dollar handling
29 charge, in order to be considered a valid renewal and eligible to renew
30 the license the following year.

31 **Sec. 37.** RCW 75.28.110 and 1997 c 76 s 1 are each amended to read
32 as follows:

33 (1) The following commercial salmon fishery licenses are required
34 for the license holder to use the specified gear to fish for salmon in
35 state waters. Only a person who meets the qualifications of RCW
36 75.30.120 (as recodified by this act) may hold a license listed in this
37 subsection. The licenses and their annual fees and surcharges under
38 RCW 75.50.100 (as recodified by this act) are:

	Fishery License	Resident Fee	Nonresident Fee	Surcharge
1				
2				
3	(a) Salmon Gill Net--Grays Harbor-Columbia river	\$380	\$685	plus \$100
4				
5	(b) Salmon Gill Net--Puget Sound	\$380	\$685	plus \$100
6				
7	(c) Salmon Gill Net--Willapa Bay-Columbia river	\$380	\$685	plus \$100
8				
9	(d) Salmon purse seine	\$530	\$985	plus \$100
10	(e) Salmon reef net	\$380	\$685	plus \$100
11	(f) Salmon troll	\$380	\$685	plus \$100

12 (2) A license issued under this section authorizes no taking or
13 delivery of salmon or other food fish unless a vessel is designated
14 under RCW 75.28.045 (as recodified by this act).

15 (3) Holders of commercial salmon fishery licenses may retain
16 incidentally caught food fish other than salmon, subject to rules of
17 the department.

18 (4) A salmon troll license includes a salmon delivery license.

19 (5) A salmon gill net license authorizes the taking of salmon only
20 in the geographical area for which the license is issued. The
21 geographical designations in subsection (1) of this section have the
22 following meanings:

23 (a) "Puget Sound" includes waters of the Strait of Juan de Fuca,
24 Georgia Strait, Puget Sound and all bays, inlets, canals, coves,
25 sounds, and estuaries lying easterly and southerly of the international
26 boundary line and a line at the entrance to the Strait of Juan de Fuca
27 projected northerly from Cape Flattery to the lighthouse on Tatoosh
28 Island and then to Bonilla Point on Vancouver Island.

29 (b) "Grays Harbor-Columbia river" includes waters of Grays Harbor
30 and tributary estuaries lying easterly of a line projected northerly
31 from Point Chehalis Light to Point Brown and those waters of the
32 Columbia river and tributary sloughs and estuaries easterly of a line
33 at the entrance to the Columbia river projected southerly from the most
34 westerly point of the North jetty to the most westerly point of the
35 South jetty.

36 (c) "Willapa Bay-Columbia river" includes waters of Willapa Bay and
37 tributary estuaries and easterly of a line projected northerly from
38 Leadbetter Point to the Cape Shoalwater tower and those waters of the
39 Columbia river and tributary sloughs described in (b) of this
40 subsection.

1 (6) A commercial salmon troll fishery license may be renewed under
2 this section if the license holder notifies the department by May 1st
3 of that year that he or she will not participate in the fishery during
4 that calendar year. A commercial salmon gill net, reef net, or seine
5 fishery license may be renewed under this section if the license holder
6 notifies the department by August 1st of that year that he or she will
7 not participate in the fishery during that calendar year. The license
8 holder must pay the one hundred-dollar enhancement surcharge, plus a
9 fifteen-dollar handling charge, in order to be considered a valid
10 renewal and eligible to renew the license the following year.

11 **Sec. 38.** RCW 75.28.113 and 1998 c 190 s 96 are each amended to
12 read as follows:

13 (1) A salmon delivery license is required to deliver salmon taken
14 in offshore waters to a place or port in the state. The annual fee for
15 a salmon delivery license is three hundred eighty dollars for residents
16 and six hundred eighty-five dollars for nonresidents. The annual
17 surcharge under RCW 75.50.100 (as recodified by this act) is one
18 hundred dollars for each license. Holders of nonlimited entry delivery
19 licenses issued under RCW 75.28.125 (as recodified by this act) may
20 apply the nonlimited entry delivery license fee against the salmon
21 delivery license fee.

22 (2) Only a person who meets the qualifications established in RCW
23 75.30.120 (as recodified by this act) may hold a salmon delivery
24 license issued under this section.

25 (3) A salmon delivery license authorizes no taking of salmon or
26 other food fish or shellfish from the waters of the state.

27 (4) If the director determines that the operation of a vessel under
28 a salmon delivery license results in the depletion or destruction of
29 the state's salmon resource or the delivery into this state of salmon
30 products prohibited by law, the director may revoke the license under
31 the procedures of chapter 34.05 RCW.

32 **Sec. 39.** RCW 75.28.116 and 1993 sp.s. c 17 s 37 are each amended
33 to read as follows:

34 A person who does not qualify for a license under RCW 75.30.120 (as
35 recodified by this act) shall obtain a nontransferable emergency salmon
36 delivery license to make one delivery of salmon taken in offshore
37 waters. The director shall not issue an emergency salmon delivery

1 license unless, as determined by the director, a bona fide emergency
 2 exists. The license fee is two hundred twenty-five dollars for
 3 residents and four hundred seventy-five dollars for nonresidents. An
 4 applicant for an emergency salmon delivery license shall designate no
 5 more than one vessel that will be used with the license. Alternate
 6 operator licenses are not required of persons delivering salmon under
 7 an emergency salmon delivery license. Emergency salmon delivery
 8 licenses are not renewable.

9 **Sec. 40.** RCW 75.28.120 and 1993 sp.s. c 17 s 38 are each amended
 10 to read as follows:

11 (1) This section establishes commercial fishery licenses required
 12 for food fish fisheries and the annual fees for those licenses. As
 13 used in this section, "food fish" does not include salmon. The
 14 director may issue a limited-entry commercial fishery license only to
 15 a person who meets the qualifications established in applicable
 16 governing sections of this title.

Fishery (Governing section(s))	Annual Fee		Vessel Required?	Limited Entry?
	Resident	Nonresident		
(a) Baitfish Lampara	\$185	\$295	Yes	No
(b) Baitfish purse seine	\$530	\$985	Yes	No
(c) Bottom fish jig	\$130	\$185	Yes	No
(d) Bottom fish pot	\$130	\$185	Yes	No
(e) Bottom fish troll	\$130	\$185	Yes	No
(f) Carp	\$130	\$185	No	No
(g) Columbia river smelt	\$380	\$685	No	No
(h) Dog fish set net	\$130	\$185	Yes	No
(i) Emerging commercial fishery (RCW 75.30.220 and 75.28.740 <u>(as recodified by this act)</u>)	\$185	\$295	Determined by rule	Determined by rule
(j) Food fish drag seine	\$130	\$185	Yes	No
(k) Food fish set line	\$130	\$185	Yes	No
(l) Food fish trawl- Non-Puget Sound	\$240	\$405	Yes	No
(m) Food fish trawl- Puget Sound	\$185	\$295	Yes	No
(n) Herring dip bag net (RCW 75.30.140 <u>(as recodified by this act)</u>)	\$175	\$275	Yes	Yes
(o) Herring drag seine (RCW 75.30.140 <u>(as recodified by this act)</u>)	\$175	\$275	Yes	Yes

1	(p) Herring gill net	\$175	\$275	Yes	Yes
2	(RCW 75.30.140 <u>(as</u>				
3	<u>recodified by this act)</u>				
4	(q) Herring Lampara	\$175	\$275	Yes	Yes
5	(RCW 75.30.140 <u>(as</u>				
6	<u>recodified by this act)</u>				
7	(r) Herring purse seine	\$175	\$275	Yes	Yes
8	(RCW 75.30.140 <u>(as</u>				
9	<u>recodified by this act)</u>				
10	(s) Herring spawn-on-kelp	N/A	N/A	Yes	Yes
11	(RCW 75.30.270 <u>(as</u>				
12	<u>recodified by this act)</u>				
13	(t) Smelt dip bag net	\$130	\$185	No	No
14	(u) Smelt gill net	\$380	\$685	Yes	No
15	(v) Whiting-Puget Sound	\$295	\$520	Yes	Yes
16	(RCW 75.30.170 <u>(as</u>				
17	<u>recodified by this act)</u>				

18 (2) The director may by rule determine the species of food fish
19 that may be taken with the commercial fishery licenses established in
20 this section, the gear that may be used with the licenses, and the
21 areas or waters in which the licenses may be used. Where a fishery
22 license has been established for a particular species, gear,
23 geographical area, or combination thereof, a more general fishery
24 license may not be used to take food fish in that fishery.

25 **Sec. 41.** RCW 75.28.125 and 1998 c 190 s 97 are each amended to
26 read as follows:

27 (1) Except as provided in subsection (2) of this section, a person
28 may not use a commercial fishing vessel to deliver food fish or
29 shellfish taken in offshore waters to a port in the state without a
30 nonlimited entry delivery license. As used in this section, "food
31 fish" does not include salmon. As used in this section, "shellfish"
32 does not include ocean pink shrimp or coastal crab. The annual license
33 fee for a nonlimited entry delivery license is one hundred ten dollars
34 for residents and two hundred dollars for nonresidents.

35 (2) Holders of salmon troll fishery licenses issued under RCW
36 75.28.110 (as recodified by this act), salmon delivery licenses issued
37 under RCW 75.28.113 (as recodified by this act), crab pot fishery
38 licenses issued under RCW 75.28.130 (as recodified by this act), food
39 fish trawl--Non-Puget Sound fishery licenses issued under RCW 75.28.120
40 (as recodified by this act), Dungeness crab--coastal fishery licenses,
41 ocean pink shrimp delivery licenses, and shrimp trawl--Non-Puget Sound

1 fishery licenses issued under RCW 75.28.130 (as recodified by this act)
 2 may deliver food fish or shellfish taken in offshore waters without a
 3 nonlimited entry delivery license.

4 (3) A nonlimited entry delivery license authorizes no taking of
 5 food fish or shellfish from state waters.

6 **Sec. 42.** RCW 75.28.130 and 1994 c 260 s 14 are each amended to
 7 read as follows:

8 (1) This section establishes commercial fishery licenses required
 9 for shellfish fisheries and the annual fees for those licenses. The
 10 director may issue a limited-entry commercial fishery license only to
 11 a person who meets the qualifications established in applicable
 12 governing sections of this title.

Fishery (Governing section(s))	Annual Fee		Vessel Required?	Limited Entry?
	Resident	Nonresident		
(a) Burrowing shrimp	\$185	\$295	Yes	No
(b) Crab ring net- Non-Puget Sound	\$130	\$185	Yes	No
(c) Crab ring net- Puget Sound	\$130	\$185	Yes	No
(d) Dungeness crab- coastal (RCW 75.30.350 <u>(as recodified by this act)</u>)	\$295	\$520	Yes	Yes
(e) Dungeness crab- coastal, class B (RCW 75.30.350 <u>(as recodified by this act)</u>)	\$295	\$520	Yes	Yes
(f) Dungeness crab- Puget Sound (RCW 75.30.130 <u>(as recodified by this act)</u>)	\$130	\$185	Yes	Yes
(g) Emerging commercial fishery (RCW 75.30.220 and 75.28.740 <u>(as recodified by this act)</u>)	\$185	\$295	Determined by rule	Determined by rule
(h) Geoduck (RCW 75.30.280 <u>(as recodified by this act)</u>)	\$ 0	\$ 0	Yes	Yes
(i) Hardshell clam mechanical harvester (RCW 75.28.280 <u>(as recodified by this act)</u>)	\$530	\$985	Yes	No

1	(j) Oyster reserve	\$130	\$185	No	No
2	(RCW 75.28.290				
3	(as recodified by this act))				
4	(k) Razor clam	\$130	\$185	No	No
5	(l) Sea cucumber dive	\$130	\$185	Yes	Yes
6	(RCW 75.30.250				
7	(as recodified by this act))				
8	(m) Sea urchin dive	\$130	\$185	Yes	Yes
9	(RCW 75.30.210				
10	(as recodified by this act))				
11	(n) Shellfish dive	\$130	\$185	Yes	No
12	(o) Shellfish pot	\$130	\$185	Yes	No
13	(p) Shrimp pot-	\$325	\$575	Yes	No
14	Hood Canal				
15	(q) Shrimp trawl-	\$240	\$405	Yes	No
16	Non-Puget Sound				
17	(r) Shrimp trawl-	\$185	\$295	Yes	No
18	Puget Sound				
19	(s) Squid	\$185	\$295	Yes	No

20 (2) The director may by rule determine the species of shellfish
21 that may be taken with the commercial fishery licenses established in
22 this section, the gear that may be used with the licenses, and the
23 areas or waters in which the licenses may be used. Where a fishery
24 license has been established for a particular species, gear,
25 geographical area, or combination thereof, a more general fishery
26 license may not be used to take shellfish in that fishery.

27 **Sec. 43.** RCW 75.28.132 and 1994 c 260 s 15 are each amended to
28 read as follows:

29 A surcharge of fifty dollars shall be collected with each Dungeness
30 crab-coastal fishery license issued under RCW 75.28.130 (as recodified
31 by this act) until June 30, 2000, and with each Dungeness crab-coastal
32 class B fishery license issued under RCW 75.28.130 (as recodified by
33 this act) until December 31, 1997. Moneys collected under this section
34 shall be placed in the Dungeness crab appeals account hereby created in
35 the state treasury. The account is subject to allotment procedures
36 under chapter 43.88 RCW, but no appropriation is required for
37 expenditures. Expenditures from the account shall only be used for
38 processing appeals related to the issuance of Dungeness crab-coastal
39 fishery licenses.

1 **Sec. 44.** RCW 75.28.133 and 1997 c 418 s 5 are each amended to read
2 as follows:

3 A surcharge of one hundred twenty dollars shall be collected with
4 each Dungeness crab-coastal fishery license and with each Dungeness
5 crab-coastal class B fishery license issued under RCW 75.28.130 (as
6 recodified by this act). Moneys collected under this section shall be
7 placed in the coastal crab account created under RCW 75.30.390 (as
8 recodified by this act).

9 **Sec. 45.** RCW 75.28.280 and 1993 c 340 s 19 are each amended to
10 read as follows:

11 A hardshell clam mechanical harvester fishery license is required
12 to operate a mechanical or hydraulic device for commercially harvesting
13 clams, other than geoduck clams, unless the requirements of RCW
14 75.20.100 (as recodified by this act) are fulfilled for the proposed
15 activity.

16 **Sec. 46.** RCW 75.28.290 and 1993 c 340 s 20 are each amended to
17 read as follows:

18 A person who commercially takes shellfish from state oyster
19 reserves under RCW 75.24.070 (as recodified by this act) must have an
20 oyster reserve fishery license.

21 **Sec. 47.** RCW 75.28.300 and 1993 sp.s. c 17 s 43 are each amended
22 to read as follows:

23 A wholesale fish dealer's license is required for:

24 (1) A business in the state to engage in the commercial processing
25 of food fish or shellfish, including custom canning or processing of
26 personal use food fish or shellfish.

27 (2) A business in the state to engage in the wholesale selling,
28 buying, or brokering of food fish or shellfish. A wholesale fish
29 dealer's license is not required of those businesses which buy
30 exclusively from Washington licensed wholesale dealers and sell solely
31 at retail.

32 (3) Fishermen who land and sell their catch or harvest in the state
33 to anyone other than a licensed wholesale dealer within or outside the
34 state.

1 (4) A business to engage in the commercial manufacture or
2 preparation of fertilizer, oil, meal, caviar, fish bait, or other
3 byproducts from food fish or shellfish.

4 (5) A business employing a fish buyer as defined under RCW
5 75.28.340 (as recodified by this act).

6 The annual license fee for a wholesale dealer is two hundred fifty
7 dollars. A wholesale fish dealer's license is not required for persons
8 engaged in the processing, wholesale selling, buying, or brokering of
9 private sector cultured aquatic products as defined in RCW 15.85.020.
10 However, if a means of identifying such products is required by rules
11 adopted under RCW 15.85.060, the exemption from licensing requirements
12 established by this subsection applies only if the aquatic products are
13 identified in conformance with those rules.

14 **Sec. 48.** RCW 75.28.323 and 1996 c 267 s 30 are each amended to
15 read as follows:

16 (1) A wholesale fish dealer shall not take possession of food fish
17 or shellfish until the dealer has deposited with the department an
18 acceptable performance bond on forms prescribed and furnished by the
19 department. This performance bond shall be a corporate surety bond
20 executed in favor of the department by a corporation authorized to do
21 business in the state of Washington under chapter 48.28 RCW and
22 approved by the department. The bond shall be filed and maintained in
23 an amount equal to one thousand dollars for each buyer engaged by the
24 wholesale dealer. In no case shall the bond be less than two thousand
25 dollars nor more than fifty thousand dollars.

26 (2) A wholesale dealer shall, within seven days of engaging
27 additional fish buyers, notify the department and increase the amount
28 of the bonding required in subsection (1) of this section.

29 (3) The director may suspend and refuse to reissue a wholesale fish
30 dealer's license of a dealer who has taken possession of food fish or
31 shellfish without an acceptable performance bond on deposit with the
32 department.

33 (4) The bond shall be conditioned upon the compliance with the
34 requirements of this chapter and rules of the department relating to
35 the payment of fines for violations of rules for the accounting of the
36 commercial harvest of food fish or shellfish. In lieu of the surety
37 bond required by this section the wholesale fish dealer may file with
38 the department a cash deposit, negotiable securities acceptable to the

1 department, or an assignment of a savings account or of a savings
2 certificate in a Washington bank on an assignment form prescribed by
3 the department.

4 (5) Liability under the bond shall be maintained as long as the
5 wholesale fish dealer engages in activities under RCW 75.28.300 (as
6 recodified by this act) unless released. Liability under the bond may
7 be released only upon written notification from the department.
8 Notification shall be given upon acceptance by the department of a
9 substitute bond or forty-five days after the expiration of the
10 wholesale fish dealer's annual license. In no event shall the
11 liability of the surety exceed the amount of the surety bond required
12 under this chapter.

13 **Sec. 49.** RCW 75.28.340 and 1993 sp.s. c 17 s 46 are each amended
14 to read as follows:

15 (1) A fish buyer's license is required of and shall be carried by
16 each individual engaged by a wholesale fish dealer to purchase food
17 fish or shellfish from a licensed commercial fisherman. A fish buyer
18 may represent only one wholesale fish dealer.

19 (2) (~~Unless adjusted by the director pursuant to the director's~~
20 ~~authority granted in RCW 75.28.065,~~) The annual fee for a fish buyer's
21 license is ninety-five dollars.

22 **Sec. 50.** RCW 75.28.730 and 1993 c 376 s 4 are each amended to read
23 as follows:

24 An ocean pink shrimp delivery license is required to deliver ocean
25 pink shrimp taken in offshore waters and delivered to a port in the
26 state. (~~Unless adjusted by the director pursuant to the director's~~
27 ~~authority granted in RCW 75.28.065,~~) The annual license fee is one
28 hundred fifty dollars for residents and three hundred dollars for
29 nonresidents. Ocean pink shrimp delivery licenses are transferable.

30 **Sec. 51.** RCW 75.28.740 and 1998 c 190 s 99 are each amended to
31 read as follows:

32 (1) The director may by rule designate a fishery as an emerging
33 commercial fishery. The director shall include in the designation
34 whether the fishery is one that requires a vessel.

35 (2) "Emerging commercial fishery" means the commercial taking of a
36 newly classified species of food fish or shellfish, the commercial

1 taking of a classified species with gear not previously used for that
2 species, or the commercial taking of a classified species in an area
3 from which that species has not previously been commercially taken.
4 Any species of food fish or shellfish commercially harvested in
5 Washington state as of June 7, 1990, may be designated as a species in
6 an emerging commercial fishery, except that no fishery subject to a
7 license limitation program in chapter 75.30 RCW (as recodified by this
8 act) may be designated as an emerging commercial fishery.

9 (3) A person shall not take food fish or shellfish in a fishery
10 designated as an emerging commercial fishery without an emerging
11 commercial fishery license and a permit from the director. The
12 director shall issue two types of permits to accompany emerging
13 commercial fishery licenses: Trial fishery permits and experimental
14 fishery permits. Trial fishery permits are governed by subsection (4)
15 of this section. Experimental fishery permits are governed by RCW
16 75.30.220 (as recodified by this act).

17 (4) The director shall issue trial fishery permits for a fishery
18 designated as an emerging commercial fishery unless the director
19 determines there is a need to limit the number of participants under
20 RCW 75.30.220 (as recodified by this act). A person who meets the
21 qualifications of RCW 75.28.020 (as recodified by this act) may hold a
22 trial fishery permit. The holder of a trial fishery permit shall
23 comply with the terms of the permit. Trial fishery permits are not
24 transferable from the permit holder to any other person.

25 **Sec. 52.** RCW 75.28.760 and 1993 sp.s. c 4 s 2 are each amended to
26 read as follows:

27 By July 1, 1994, the ~~((departments of fisheries and wildlife))~~
28 commission jointly with the appropriate Indian tribes, shall each
29 establish a wild salmonid policy. The policy shall ensure that
30 department actions and programs are consistent with the goals of
31 rebuilding wild stock populations to levels that permit commercial and
32 recreational fishing opportunities.

33 **Sec. 53.** RCW 75.28.770 and 1998 c 245 s 153 are each amended to
34 read as follows:

35 The ~~((department))~~ director shall evaluate and recommend, in
36 consultation with the Indian tribes, salmon fishery management
37 strategies and gear types, as well as a schedule for implementation,

1 that will minimize the impact of commercial and recreational fishing in
 2 the mixed stock fishery on critical and depressed wild stocks of
 3 salmonids. As part of this evaluation, the ((department)) director, in
 4 conjunction with the commercial and recreational fishing industries,
 5 shall evaluate commercial and recreational salmon fishing gear types
 6 developed by these industries.

7 **Sec. 54.** RCW 75.28.780 and 1993 sp.s. c 17 s 42 are each amended
 8 to read as follows:

9 The director shall issue the personal licenses listed in this
 10 section according to the requirements of this title. The licenses and
 11 their annual fees are:

Personal License	Annual Fee		Governing Section
	Resident	Nonresident	
	(RCW 75.50.100 <u>(as recodified by this act)</u> Surcharge)		
(1) Alternate Operator	\$ 35	\$ 35	RCW 75.28.048 <u>(as recodified by this act)</u>
(2) Geoduck Diver	\$185	\$295	RCW 75.28.750 <u>(as recodified by this act)</u>
(3) Salmon Guide	\$130	\$630	RCW 75.28.710 <u>(as recodified by this act)</u>
	(plus \$20)	(plus \$100)	

23 **Sec. 55.** RCW 75.30.021 and 1995 c 227 s 2 are each amended to read
 24 as follows:

25 (1) The ((department)) director shall waive license requirements,
 26 including landing or poundage requirements, if, during the calendar
 27 year that a license issued pursuant to chapter 75.28 RCW (as recodified
 28 by this act) is valid, no harvest opportunity occurs in the fishery
 29 corresponding to the license.

30 (2) For each license limitation program, where the person failed to
 31 hold the license and failed to make landing or poundage requirements
 32 because of a license waiver by the ((department)) director during the
 33 previous year, the person shall qualify for a license by establishing
 34 that the person held the license during the last year in which the
 35 license was not waived.

36 **Sec. 56.** RCW 75.30.050 and 1995 c 269 s 3101 are each amended to
 37 read as follows:

1 (1) The director shall appoint three-member advisory review boards
2 to hear cases as provided in RCW 75.30.060 (as recodified by this act).
3 Members shall be from:

4 (a) The commercial crab fishing industry in cases involving
5 Dungeness crab-Puget Sound fishery licenses;

6 (b) The commercial herring fishery in cases involving herring
7 fishery licenses;

8 (c) The commercial sea urchin and sea cucumber fishery in cases
9 involving sea urchin and sea cucumber dive fishery licenses;

10 (d) The commercial ocean pink shrimp industry (*Pandalus jordani*) in
11 cases involving ocean pink shrimp delivery licenses; and

12 (e) The commercial coastal crab fishery in cases involving
13 Dungeness crab-coastal fishery licenses and Dungeness crab-coastal
14 class B fishery licenses. The members shall include one person from
15 the commercial crab processors, one Dungeness crab-coastal fishery
16 license holder, and one citizen representative of a coastal community.

17 (2) Members shall serve at the discretion of the director and shall
18 be reimbursed for travel expenses as provided in RCW 43.03.050,
19 43.03.060, and 43.03.065.

20 **Sec. 57.** RCW 75.30.060 and 1995 1st sp.s. c 2 s 32 are each
21 amended to read as follows:

22 A person aggrieved by a decision of the department under this
23 chapter may request administrative review under the informal procedure
24 established by this section.

25 In an informal hearing before a review board, the rules of evidence
26 do not apply. A record of the proceeding shall be kept as provided by
27 chapter 34.05 RCW. After hearing the case the review board shall
28 notify in writing the ~~((commission))~~ director and the initiating party
29 whether the review board agrees or disagrees with the department's
30 decision and the reasons for the review board's findings. Upon receipt
31 of the review board's findings the ~~((commission))~~ director may order
32 such relief as the ~~((commission))~~ director deems appropriate under the
33 circumstances.

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

1 **Sec. 58.** RCW 75.30.065 and 1993 c 340 s 28 are each amended to
2 read as follows:

3 (1) After May 28, 1977, the director shall issue no new salmon
4 charter licenses. A person may renew an existing salmon charter
5 license only if the person held the license sought to be renewed during
6 the previous year or acquired the license by transfer from someone who
7 held it during the previous year, and if the person has not
8 subsequently transferred the license to another person.

9 (2) Salmon charter licenses may be renewed each year. A salmon
10 charter license which is not renewed each year shall not be renewed
11 further.

12 (3) Subject to the restrictions in (~~section 11 of this act~~) RCW
13 75.28.011 (as recodified by this act), salmon charter licenses are
14 transferrable from one license holder to another.

15 **Sec. 59.** RCW 75.30.070 and 1998 c 190 s 100 are each amended to
16 read as follows:

17 (1) Except as provided in subsection (3) of this section, a person
18 shall not operate a vessel as a charter boat from which salmon are
19 taken in salt water without an angler permit. The angler permit shall
20 specify the maximum number of persons that may fish from the charter
21 boat per trip. The angler permit expires if the salmon charter license
22 is not renewed.

23 (2) Only a person who holds a salmon charter license issued under
24 RCW 75.28.095 and 75.30.065 (as recodified by this act) may hold an
25 angler permit.

26 (3) An angler permit shall not be required for charter boats
27 licensed in Oregon and fishing in ocean waters within the jurisdiction
28 of Washington state from the southern border of the state of Washington
29 to Leadbetter Point under the same regulations as Washington charter
30 boat operators, as long as the Oregon vessel does not land at any
31 Washington port with the purpose of taking on or discharging
32 passengers. The provisions of this subsection shall be in effect as
33 long as the state of Oregon has reciprocal laws and regulations.

34 **Sec. 60.** RCW 75.30.090 and 1993 c 340 s 30 are each amended to
35 read as follows:

36 A salmon charter boat may not carry more anglers than the number
37 specified in the angler permit issued under RCW 75.30.070 (as

1 recodified by this act). Members of the crew may fish from the boat
2 only to the extent that the number of anglers specified in the angler
3 permit exceeds the number of noncrew passengers on the boat at that
4 time.

5 **Sec. 61.** RCW 75.30.100 and 1993 c 340 s 31 are each amended to
6 read as follows:

7 (1) The total number of anglers authorized by the ((department))
8 director shall not exceed the total number authorized for 1980.

9 (2) Angler permits issued under RCW 75.30.070 (as recodified by
10 this act) are transferable. All or a portion of the permit may be
11 transferred to another salmon charter license holder.

12 (3) The angler permit holder and proposed transferee shall notify
13 the department when transferring an angler permit, and the
14 ((department)) director shall issue a new angler permit certificate.
15 If the original permit holder retains a portion of the permit, the
16 ((department)) director shall issue a new angler permit certificate
17 reflecting the decrease in angler capacity.

18 (4) The department shall collect a fee of ten dollars for each
19 certificate issued under subsection (3) of this section.

20 **Sec. 62.** RCW 75.30.120 and 1995 c 135 s 7 are each amended to read
21 as follows:

22 (1) Except as provided in subsection (2) of this section, after May
23 6, 1974, the director shall issue no new commercial salmon fishery
24 licenses or salmon delivery licenses. A person may renew an existing
25 license only if the person held the license sought to be renewed during
26 the previous year or acquired the license by transfer from someone who
27 held it during the previous year, and if the person has not
28 subsequently transferred the license to another person.

29 (2) Where the person failed to obtain the license during the
30 previous year because of a license suspension, the person may qualify
31 for a license by establishing that the person held such a license
32 during the last year in which the license was not suspended.

33 (3) Subject to the restrictions in RCW 75.28.011 (as recodified by
34 this act), commercial salmon fishery licenses and salmon delivery
35 licenses are transferable from one license holder to another.

1 **Sec. 63.** RCW 75.30.125 and 1993 c 340 s 33 are each amended to
2 read as follows:

3 Any commercial salmon fishery license issued under RCW 75.28.110
4 (as recodified by this act) or salmon delivery license issued under RCW
5 75.28.113 (as recodified by this act) shall revert to the department
6 when any government confiscates and sells the vessel designated on the
7 license. Upon application of the person named on the license as
8 license holder and the approval of the director, the department shall
9 transfer the license to the applicant. Application for transfer of the
10 license must be made within the calendar year for which the license was
11 issued.

12 **Sec. 64.** RCW 75.30.130 and 1998 c 190 s 101 are each amended to
13 read as follows:

14 (1) A person shall not commercially take Dungeness crab (*Cancer*
15 *magister*) in Puget Sound without first obtaining a Dungeness crab--
16 Puget Sound fishery license. As used in this section, "Puget Sound"
17 has the meaning given in RCW 75.28.110(5)(a)(as recodified by this
18 act). A Dungeness crab--Puget Sound fishery license is not required to
19 take other species of crab, including red rock crab (*Cancer productus*).

20 (2) Except as provided in subsections (3) and (6) of this section,
21 after January 1, 1982, the director shall issue no new Dungeness crab--
22 Puget Sound fishery licenses. Only a person who meets the following
23 qualification may renew an existing license: The person shall have
24 held the Dungeness crab--Puget Sound fishery license sought to be
25 renewed during the previous year or acquired the license by transfer
26 from someone who held it during the previous year, and shall not have
27 subsequently transferred the license to another person.

28 (3) Where the person failed to obtain the license during the
29 previous year because of a license suspension, the person may qualify
30 for a license by establishing that the person held such a license
31 during the last year in which the license was not suspended.

32 (4) This section does not restrict the issuance of commercial crab
33 licenses for areas other than Puget Sound or for species other than
34 Dungeness crab.

35 (5) Dungeness crab--Puget Sound fishery licenses are transferable
36 from one license holder to another.

37 (6) If fewer than one hundred twenty-five persons are eligible for
38 Dungeness crab--Puget Sound fishery licenses, the director may accept

1 applications for new licenses. The director shall determine by random
2 selection the successful applicants for the additional licenses. The
3 number of additional licenses issued shall be sufficient to maintain
4 one hundred twenty-five licenses in the Puget Sound Dungeness crab
5 fishery. The director shall adopt rules governing the application,
6 selection, and issuance procedures for new Dungeness crab--Puget Sound
7 fishery licenses, based upon recommendations of ~~((a board of))~~ an
8 advisory review board established under RCW 75.30.050 (as recodified by
9 this act).

10 **Sec. 65.** RCW 75.30.140 and 1998 c 190 s 102 are each amended to
11 read as follows:

12 (1) A person shall not fish commercially for herring in state
13 waters without a herring fishery license. As used in this section,
14 "herring fishery license" means any of the following commercial fishery
15 licenses issued under RCW 75.28.120 (as recodified by this act):
16 Herring dip bag net; herring drag seine; herring gill net; herring
17 lampara; herring purse seine.

18 (2) Except as provided in this section, a herring fishery license
19 may be issued only to a person who held the license sought to be
20 renewed during the previous year or acquired the license by transfer
21 from someone who held it during the previous year, and if the person
22 has not subsequently transferred the license to another person.

23 (3) Herring fishery licenses may be renewed each year. A herring
24 fishery license that is not renewed each year shall not be renewed
25 further.

26 (4) The ~~((department))~~ director may issue additional herring
27 fishery licenses if the stocks of herring will not be jeopardized by
28 granting additional licenses.

29 (5) Subject to the restrictions of RCW 75.28.011 (as recodified by
30 this act), herring fishery licenses are transferable from one license
31 holder to another.

32 **Sec. 66.** RCW 75.30.170 and 1993 c 340 s 39 are each amended to
33 read as follows:

34 (1) A person shall not commercially take whiting from areas that
35 the department designates within the waters described in RCW
36 75.28.110(5)(a) (as recodified by this act) without a whiting-Puget
37 Sound fishery license.

1 (2) A whiting-Puget Sound fishery license may be issued only to an
2 individual who:

3 (a) Delivered at least fifty thousand pounds of whiting during the
4 period from January 1, 1981, through February 22, 1985, as verified by
5 fish delivery tickets;

6 (b) Possessed, on January 1, 1986, all equipment necessary to fish
7 for whiting; and

8 (c) Held a whiting-Puget Sound fishery license during the previous
9 year or acquired such a license by transfer from someone who held it
10 during the previous year.

11 (~~(2)~~) (3) After January 1, 1995, the director shall issue no new
12 whiting-Puget Sound fishery licenses. After January 1, 1995, only an
13 individual who meets the following qualifications may renew an existing
14 license: The individual shall have held the license sought to be
15 renewed during the previous year or acquired the license by transfer
16 from someone who held it during the previous year, and shall not have
17 subsequently transferred the license to another person.

18 (~~(3)~~) (4) Whiting-Puget Sound fishery licenses may be renewed
19 each year. A whiting-Puget Sound fishery license that is not renewed
20 each year shall not be renewed further.

21 **Sec. 67.** RCW 75.30.180 and 1993 c 340 s 40 are each amended to
22 read as follows:

23 A whiting-Puget Sound fishery license may be transferred through
24 gift, devise, bequest, or descent to members of the license holder's
25 immediate family which shall be limited to spouse, children, or
26 stepchildren. The holder of a whiting-Puget Sound fishery license
27 shall be present on any vessel taking whiting under the license. In no
28 instance may temporary permits be issued.

29 The director may adopt rules necessary to implement RCW (~~(75.30.160~~
30 ~~through)~~) 75.30.170 and 75.30.180 (as recodified by this act).

31 **Sec. 68.** RCW 75.30.210 and 1998 c 190 s 104 are each amended to
32 read as follows:

33 (1) A person shall not commercially take any species of sea urchin
34 using shellfish diver gear without first obtaining a sea urchin dive
35 fishery license.

36 (2) Except as provided in subsections (3) and (6) of this section,
37 after December 31, 1991, the director shall issue no new sea urchin

1 dive fishery licenses. Only a person who meets the following
2 qualifications may renew an existing license:

3 (a) The person shall have held the sea urchin dive fishery license
4 sought to be renewed during the previous year or acquired the license
5 by transfer from someone who held it during the previous year; and

6 (b) The person shall document, by valid shellfish receiving tickets
7 issued by the department, that twenty thousand pounds of sea urchins
8 were caught and sold under the license sought to be renewed during the
9 two-year period ending March 31 of the most recent odd-numbered year.

10 (3) Where the person failed to obtain the license during the
11 previous year because of a license suspension or revocation by the
12 (~~department~~) director or the court, the person may qualify for a
13 license by establishing that the person held such a license during the
14 last year in which the person was eligible.

15 (4) The director may reduce or waive the poundage requirement of
16 subsection (2)(b) of this section upon the recommendation of (~~a board~~
17 ~~of~~) an advisory review board established under RCW 75.30.050 (as
18 recodified by this act). The review board (~~of review~~) may recommend
19 a reduction or waiver of the poundage requirement in individual cases
20 if, in the review board's judgment, extenuating circumstances prevent
21 achievement of the poundage requirement. The director shall adopt
22 rules governing the operation of the (~~board of~~) review board and
23 defining "extenuating circumstances."

24 (5) Sea urchin dive fishery licenses are not transferable from one
25 license holder to another, except from parent to child, or from spouse
26 to spouse during marriage or as a result of marriage dissolution, or
27 upon the death of the license holder.

28 (6) If fewer than forty-five persons are eligible for sea urchin
29 dive fishery licenses, the director may accept applications for new
30 licenses. The director shall determine by random selection the
31 successful applicants for the additional licenses. The number of
32 additional licenses issued shall be sufficient to maintain up to forty-
33 five licenses in the sea urchin dive fishery. The director shall adopt
34 rules governing the application, selection, and issuance procedure for
35 new sea urchin dive fishery licenses, based upon recommendations of (~~a~~
36 ~~board of~~) an advisory review board established under RCW 75.30.050 (as
37 recodified by this act).

1 **Sec. 69.** RCW 75.30.220 and 1993 c 340 s 42 are each amended to
2 read as follows:

3 (1) The director may issue experimental fishery permits for
4 commercial harvest in an emerging commercial fishery for which the
5 director has determined there is a need to limit the number of
6 participants. The director shall determine by rule the number and
7 qualifications of participants for such experimental fishery permits.
8 Only a person who holds an emerging commercial fishery license issued
9 under RCW 75.28.740 (as recodified by this act) and who meets the
10 qualifications established in those rules may hold an experimental
11 fishery permit. The director shall limit the number of these permits
12 to prevent habitat damage, ensure conservation of the resource, and
13 prevent overharvesting. In developing rules for limiting participation
14 in an emerging or expanding commercial fishery, the director shall
15 appoint a five-person advisory board representative of the affected
16 fishery industry. The advisory board shall review and make
17 recommendations to the director on rules relating to the number and
18 qualifications of the participants for such experimental fishery
19 permits.

20 (2) RCW 34.05.422(3) does not apply to applications for new
21 experimental fishery permits.

22 (3) Experimental fishery permits are not transferable from the
23 permit holder to any other person.

24 **Sec. 70.** RCW 75.30.250 and 1998 c 190 s 105 are each amended to
25 read as follows:

26 (1) A person shall not commercially take while using shellfish
27 diver gear any species of sea cucumber without first obtaining a sea
28 cucumber dive fishery license.

29 (2) Except as provided in subsection (6) of this section, after
30 December 31, 1991, the director shall issue no new sea cucumber dive
31 fishery licenses. Only a person who meets the following qualifications
32 may renew an existing license:

33 (a) The person shall have held the sea cucumber dive fishery
34 license sought to be renewed during the previous two years or acquired
35 the license by transfer from someone who held it during the previous
36 year; and

37 (b) The person shall establish, by means of dated shellfish
38 receiving documents issued by the department, that thirty landings of

1 sea cucumbers totaling at least ten thousand pounds were made under the
2 license during the previous two-year period ending December 31 of the
3 odd-numbered year.

4 (3) Where the person failed to obtain the license during either of
5 the previous two years because of a license suspension by the
6 (~~department~~) director or the court, the person may qualify for a
7 license by establishing that the person held such a license during the
8 last year in which the person was eligible.

9 (4) The director may reduce or waive any landing or poundage
10 requirement established under this section upon the recommendation of
11 (~~a board of~~) an advisory review board established under RCW 75.30.050
12 (as recodified by this act). The (~~board of~~) review board may
13 recommend a reduction or waiver of any landing or poundage requirement
14 in individual cases if, in the review board's judgment, extenuating
15 circumstances prevent achievement of the landing or poundage
16 requirement. The director shall adopt rules governing the operation of
17 the (~~board of~~) review board and defining "extenuating circumstances."

18 (5) Sea cucumber dive fishery licenses are not transferable from
19 one license holder to another except from parent to child, from spouse
20 to spouse during marriage or as a result of marriage dissolution, or
21 upon death of the license holder.

22 (6) If fewer than fifty persons are eligible for sea cucumber dive
23 fishery licenses, the director may accept applications for new licenses
24 from those persons who can demonstrate two years' experience in the
25 Washington state sea cucumber dive fishery. The director shall
26 determine by random selection the successful applicants for the
27 additional licenses. The number of additional licenses issued shall be
28 sufficient to maintain up to fifty licenses in the sea cucumber dive
29 fishery. The director shall adopt rules governing the application,
30 selection, and issuance procedure for new sea cucumber dive fishery
31 licenses, based upon recommendations of (~~a board of~~) an advisory
32 review board established under RCW 75.30.050 (as recodified by this
33 act).

34 **Sec. 71.** RCW 75.30.270 and 1993 c 340 s 37 are each amended to
35 read as follows:

36 (1) A herring spawn on kelp fishery license is required to
37 commercially take herring eggs which have been deposited on vegetation
38 of any type.

1 (2) A herring spawn on kelp fishery license may be issued only to
2 a person who:

3 (a) Holds a herring fishery license issued under RCW 75.28.120 and
4 75.30.140 (as recodified by this act); and

5 (b) Is the highest bidder in an auction conducted under subsection
6 (3) of this section.

7 (3) The department shall sell herring spawn on kelp commercial
8 fishery licenses at auction to the highest bidder. Bidders shall
9 identify their sources of kelp. Kelp harvested from state-owned
10 aquatic lands as defined in RCW 79.90.465 requires the written consent
11 of the department of natural resources. The department shall give all
12 holders of herring fishery licenses thirty days' notice of the auction.

13 **Sec. 72.** RCW 75.30.280 and 1998 c 190 s 106 are each amended to
14 read as follows:

15 (1) A person shall not harvest geoduck clams commercially without
16 a geoduck fishery license. This section does not apply to the harvest
17 of private sector cultured aquatic products as defined in RCW
18 15.85.020.

19 (2) Only a person who has entered into a geoduck harvesting
20 agreement with the department of natural resources under RCW 79.96.080
21 may hold a geoduck fishery license.

22 (3) A geoduck fishery license authorizes no taking of geoducks
23 outside the boundaries of the public lands designated in the underlying
24 harvesting agreement, or beyond the harvest ceiling set in the
25 underlying harvesting agreement.

26 (4) A geoduck fishery license expires when the underlying geoduck
27 harvesting agreement terminates.

28 (5) The director shall determine the number of geoduck fishery
29 licenses that may be issued for each geoduck harvesting agreement, the
30 number of units of gear whose use the license authorizes, and the type
31 of gear that may be used, subject to RCW 75.24.100 (as recodified by
32 this act). In making those determinations, the director shall seek to
33 conserve the geoduck resource and prevent damage to its habitat.

34 (6) The holder of a geoduck fishery license and the holder's agents
35 and representatives shall comply with all applicable commercial diving
36 safety regulations adopted by the federal occupational safety and
37 health administration established under the federal occupational safety
38 and health act of 1970 as such law exists on May 8, 1979, 84 Stat. 1590

1 et seq.; 29 U.S.C. Sec. 651 et seq. A violation of those regulations
2 is a violation of this subsection. For the purposes of this section,
3 persons who dive for geoducks are "employees" as defined by the federal
4 occupational safety and health act. A violation of this subsection is
5 grounds for suspension or revocation of a geoduck fishery license
6 following a hearing under the procedures of chapter 34.05 RCW. The
7 ((department)) director shall not suspend or revoke a geoduck fishery
8 license if the violation has been corrected within ten days of the date
9 the license holder receives written notice of the violation. If there
10 is a substantial probability that a violation of the commercial diving
11 standards could result in death or serious physical harm to a person
12 engaged in harvesting geoduck clams, the ((department)) director shall
13 suspend the license immediately until the violation has been corrected.
14 If the license holder is not the operator of the harvest vessel and has
15 contracted with another person for the harvesting of geoducks, the
16 ((department)) director shall not suspend or revoke the license if the
17 license holder terminates its business relationship with that person
18 until compliance with this subsection is secured.

19 **Sec. 73.** RCW 75.30.290 and 1998 c 190 s 107 are each amended to
20 read as follows:

21 A person shall not commercially deliver into any Washington state
22 port ocean pink shrimp caught in offshore waters without an ocean pink
23 shrimp delivery license issued under RCW 75.28.730 (as recodified by
24 this act), or an ocean pink shrimp single delivery license issued under
25 RCW 75.30.320 (as recodified by this act). An ocean pink shrimp
26 delivery license shall be issued to a vessel that:

27 (1) Landed a total of at least five thousand pounds of ocean pink
28 shrimp in Washington in any single calendar year between January 1,
29 1983, and December 31, 1992, as documented by a valid shellfish
30 receiving ticket; and

31 (2) Can show continuous participation in the Washington, Oregon, or
32 California ocean pink shrimp fishery by being eligible to land ocean
33 pink shrimp in either Washington, Oregon, or California each year since
34 the landing made under subsection (1) of this section. Evidence of
35 such eligibility shall be a certified statement from the relevant state
36 licensing agency that the applicant for a Washington ocean pink shrimp
37 delivery license held at least one of the following permits:

1 (a) For Washington: Possession of a delivery permit or delivery
2 license issued under RCW 75.28.125 (~~(or a trawl license (other than~~
3 ~~Puget Sound) issued under RCW 75.28.140)~~) (as recodified by this act);

4 (b) For Oregon: Possession of a vessel permit issued under Oregon
5 Revised Statute 508.880; or

6 (c) For California: A trawl permit issued under California Fish
7 and Game Code sec. 8842.

8 **Sec. 74.** RCW 75.30.300 and 1993 c 376 s 6 are each amended to read
9 as follows:

10 An applicant who can show historical participation under RCW
11 75.30.290(1) (as recodified by this act) but does not satisfy the
12 continuous participation requirement of RCW 75.30.290(2) (as recodified
13 by this act) shall be issued an ocean pink shrimp delivery license if:

14 (1) The owner can prove that the owner was in the process on
15 December 31, 1992, of constructing a vessel for the purpose of ocean
16 pink shrimp harvest. For purposes of this section, "construction"
17 means having the keel laid, and "for the purpose of ocean pink shrimp
18 harvest" means the vessel is designed as a trawl vessel. An ocean pink
19 shrimp delivery license issued to a vessel under construction is not
20 renewable after December 31, 1994, unless the vessel lands a total of
21 at least five thousand pounds of ocean pink shrimp into a Washington
22 state port before December 31, 1994; or

23 (2) The applicant's vessel is a replacement for a vessel that is
24 otherwise eligible for an ocean pink shrimp delivery license.

25 **Sec. 75.** RCW 75.30.320 and 1993 c 376 s 8 are each amended to read
26 as follows:

27 The owner of an ocean pink shrimp fishing vessel that does not
28 qualify for an ocean pink shrimp delivery license issued under RCW
29 75.28.730 (as recodified by this act) shall obtain an ocean pink shrimp
30 single delivery license in order to make a landing into a state port of
31 ocean pink shrimp taken in offshore waters. The director shall not
32 issue an ocean pink shrimp single delivery license unless, as
33 determined by the director, a bona fide emergency exists. A maximum of
34 six ocean pink shrimp single delivery licenses may be issued annually
35 to any vessel. (~~(Unless adjusted by the director pursuant to the~~
36 ~~director's authority granted in RCW 75.28.065,)~~) The fee for an ocean
37 pink shrimp single delivery license is one hundred dollars.

1 **Sec. 76.** RCW 75.30.330 and 1993 c 376 s 10 are each amended to
2 read as follows:

3 The director may reduce the landing requirements established under
4 RCW 75.30.290 (as recodified by this act) upon the recommendation of an
5 advisory review board established under RCW 75.30.050 (as recodified by
6 this act), but the director may not entirely waive the landing
7 requirement. The advisory review board may recommend a reduction of
8 the landing requirement in individual cases if in the advisory review
9 board's judgment, extenuating circumstances prevented achievement of
10 the landing requirement. The director shall adopt rules governing the
11 operation of the advisory review board and defining "extenuating
12 circumstances."

13 **Sec. 77.** RCW 75.30.350 and 1998 c 190 s 108 are each amended to
14 read as follows:

15 (1) A person shall not commercially fish for coastal crab in
16 Washington state waters without a Dungeness crab--coastal or a
17 Dungeness crab--coastal class B fishery license. Gear used must
18 consist of one buoy attached to each crab pot. Each crab pot must be
19 fished individually.

20 (2) A Dungeness crab--coastal fishery license is transferable.
21 Except as provided in subsection (3) of this section, such a license
22 shall only be issued to a person who proved active historical
23 participation in the coastal crab fishery by having designated, after
24 December 31, 1993, a vessel or a replacement vessel on the qualifying
25 license that singly or in combination meets the following criteria:

26 (a) Made a minimum of eight coastal crab landings totaling a
27 minimum of five thousand pounds per season in at least two of the four
28 qualifying seasons identified in subsection (5) of this section, as
29 documented by valid Washington state shellfish receiving tickets; and
30 showed historical and continuous participation in the coastal crab
31 fishery by having held one of the following licenses or their
32 equivalents each calendar year beginning 1990 through 1993, and was
33 designated on the qualifying license of the person who held one of the
34 following licenses in 1994:

35 (i) Crab pot--Non-Puget Sound license, issued under RCW
36 75.28.130(1)(b) (as recodified by this act);

37 (ii) Nonsalmon delivery license, issued under RCW 75.28.125 (as
38 recodified by this act);

1 (iii) Salmon troll license, issued under RCW 75.28.110 (as
2 recodified by this act);

3 (iv) Salmon delivery license, issued under RCW 75.28.113 (as
4 recodified by this act);

5 (v) Food fish trawl license, issued under RCW 75.28.120 (as
6 recodified by this act); or

7 (vi) Shrimp trawl license, issued under RCW 75.28.130 (as
8 recodified by this act); or

9 (b) Made a minimum of four Washington landings of coastal crab
10 totaling two thousand pounds during the period from December 1, 1991,
11 to March 20, 1992, and made a minimum of eight crab landings totaling
12 a minimum of five thousand pounds of coastal crab during each of the
13 following periods: December 1, 1991, to September 15, 1992; December
14 1, 1992, to September 15, 1993; and December 1, 1993, to September 15,
15 1994. For landings made after December 31, 1993, the vessel shall have
16 been designated on the qualifying license of the person making the
17 landings; or

18 (c) Made any number of coastal crab landings totaling a minimum of
19 twenty thousand pounds per season in at least two of the four
20 qualifying seasons identified in subsection (5) of this section, as
21 documented by valid Washington state shellfish receiving tickets,
22 showed historical and continuous participation in the coastal crab
23 fishery by having held one of the qualifying licenses each calendar
24 year beginning 1990 through 1993, and the vessel was designated on the
25 qualifying license of the person who held that license in 1994.

26 (3) A Dungeness crab-coastal fishery license shall be issued to a
27 person who had a new vessel under construction between December 1,
28 1988, and September 15, 1992, if the vessel made coastal crab landings
29 totaling a minimum of five thousand pounds by September 15, 1993, and
30 the new vessel was designated on the qualifying license of the person
31 who held that license in 1994. All landings shall be documented by
32 valid Washington state shellfish receiving tickets. License
33 applications under this subsection may be subject to review by the
34 advisory review board in accordance with RCW 75.30.050 (as recodified
35 by this act). For purposes of this subsection, "under construction"
36 means either:

37 (a)(i) A contract for any part of the work was signed before
38 September 15, 1992; and

1 (ii) The contract for the vessel under construction was not
2 transferred or otherwise alienated from the contract holder between the
3 date of the contract and the issuance of the Dungeness crab-coastal
4 fishery license; and

5 (iii) Construction had not been completed before December 1, 1988;
6 or

7 (b)(i) The keel was laid before September 15, 1992; and

8 (ii) Vessel ownership was not transferred or otherwise alienated
9 from the owner between the time the keel was laid and the issuance of
10 the Dungeness crab-coastal fishery license; and

11 (iii) Construction had not been completed before December 1, 1988.

12 (4) A Dungeness crab--coastal class B fishery license is not
13 transferable. Such a license shall be issued to persons who do not
14 meet the qualification criteria for a Dungeness crab--coastal fishery
15 license, if the person has designated on a qualifying license after
16 December 31, 1993, a vessel or replacement vessel that, singly or in
17 combination, made a minimum of four landings totaling a minimum of two
18 thousand pounds of coastal crab, documented by valid Washington state
19 shellfish receiving tickets, during at least one of the four qualifying
20 seasons, and if the person has participated continuously in the coastal
21 crab fishery by having held or by having owned a vessel that held one
22 or more of the licenses listed in subsection (2) of this section in
23 each calendar year subsequent to the qualifying season in which
24 qualifying landings were made through 1994. Dungeness crab--coastal
25 class B fishery licenses cease to exist after December 31, 1999, and
26 the continuing license provisions of RCW 34.05.422(3) are not
27 applicable.

28 (5) The four qualifying seasons for purposes of this section are:

29 (a) December 1, 1988, through September 15, 1989;

30 (b) December 1, 1989, through September 15, 1990;

31 (c) December 1, 1990, through September 15, 1991; and

32 (d) December 1, 1991, through September 15, 1992.

33 (6) For purposes of this section and RCW 75.30.420 (as recodified
34 by this act), "coastal crab" means Dungeness crab (cancer magister)
35 taken in all Washington territorial and offshore waters south of the
36 United States-Canada boundary and west of the Bonilla-Tatoosh line (a
37 line from the western end of Cape Flattery to Tatoosh Island
38 lighthouse, then to the buoy adjacent to Duntz Rock, then in a straight

1 line to Bonilla Point of Vancouver island), Grays Harbor, Willapa Bay,
2 and the Columbia river.

3 (7) For purposes of this section, "replacement vessel" means a
4 vessel used in the coastal crab fishery in 1994, and that replaces a
5 vessel used in the coastal crab fishery during any period from 1988
6 through 1993, and which vessel's licensing and catch history, together
7 with the licensing and catch history of the vessel it replaces,
8 qualifies a single applicant for a Dungeness crab--coastal or Dungeness
9 crab--coastal class B fishery license. A Dungeness crab--coastal or
10 Dungeness crab--coastal class B fishery license may only be issued to
11 a person who designated a vessel in the 1994 coastal crab fishery and
12 who designated the same vessel in 1995.

13 **Sec. 78.** RCW 75.30.370 and 1994 c 260 s 4 are each amended to read
14 as follows:

15 A person commercially fishing for Dungeness crab in offshore waters
16 outside of Washington state jurisdiction shall obtain a Dungeness crab
17 offshore delivery license from the director if the person does not
18 possess a valid Dungeness crab-coastal fishery license or a valid
19 Dungeness crab-coastal class B fishery license and the person wishes to
20 land Dungeness crab into a place or a port in the state. The annual
21 fee for a Dungeness crab offshore delivery license is two hundred fifty
22 dollars. The director may specify restrictions on landings of offshore
23 Dungeness crab in Washington state as authorized in RCW 75.30.360 (as
24 recodified by this act).

25 Fees from the offshore Dungeness crab delivery license shall be
26 placed in the ((~~coastal~~ {~~coastal~~}) coastal crab account created in RCW
27 75.30.390 (as recodified by this act).

28 **Sec. 79.** RCW 75.30.380 and 1997 c 418 s 3 are each amended to read
29 as follows:

30 Dungeness crab-coastal fishery licenses are freely transferable on
31 a willing seller-willing buyer basis after paying the transfer fee in
32 RCW 75.28.011 (as recodified by this act).

33 **Sec. 80.** RCW 75.30.390 and 1997 c 418 s 4 are each amended to read
34 as follows:

35 The coastal crab account is created in the custody of the state
36 treasurer. The account shall consist of revenues from fees from the

1 transfer of each Dungeness crab-coastal fishery license assessed under
2 RCW 75.28.011 (as recodified by this act), delivery fees assessed under
3 RCW 75.30.370 (as recodified by this act), and the license surcharge
4 under RCW 75.28.133 (as recodified by this act). Only the director or
5 the director's designee may authorize expenditures from the account.
6 The account is subject to allotment procedures under chapter 43.88 RCW
7 but no appropriation is required for expenditures. Funds may be used
8 for coastal crab management activities as provided in RCW 75.30.410 (as
9 recodified by this act).

10 **Sec. 81.** RCW 75.30.420 and 1994 c 260 s 9 are each amended to read
11 as follows:

12 (1) An Oregon resident who can show historical and continuous
13 participation in the Washington state coastal crab fishery by having
14 held a nonresident non-Puget Sound crab pot license issued under RCW
15 75.28.130 (as recodified by this act) each year from 1990 through 1994,
16 and who has delivered a minimum of eight landings totaling five
17 thousand pounds of crab into Oregon during any two of the four
18 qualifying seasons as provided in RCW 75.30.350(~~(+4)~~) (5) (as
19 recodified by this act) as evidenced by valid Oregon fish receiving
20 tickets, shall be issued a nonresident Dungeness crab-coastal fishery
21 license valid for fishing in Washington state waters north from the
22 Oregon-Washington boundary to United States latitude forty-six degrees
23 thirty minutes north. Such license shall be issued upon application
24 and submission of proof of delivery.

25 (2) This section shall become effective contingent upon reciprocal
26 statutory authority in the state of Oregon providing for equal access
27 for Washington state coastal crab fishers to Oregon territorial coastal
28 waters north of United States latitude forty-five degrees fifty-eight
29 minutes north, and Oregon waters of the Columbia river.

30 **Sec. 82.** RCW 75.30.440 and 1994 c 260 s 13 are each amended to
31 read as follows:

32 Except as provided under RCW 75.30.460 (as recodified by this act),
33 the director shall issue no new Dungeness crab-coastal fishery licenses
34 after December 31, 1995. A person may renew an existing license only
35 if the person held the license sought to be renewed during the previous
36 year or acquired the license by transfer from someone who held it
37 during the previous year, and if the person has not subsequently

1 transferred the license to another person. Where the person failed to
2 obtain the license during the previous year because of a license
3 suspension, the person may qualify for a license by establishing that
4 the person held such a license during the last year in which the
5 license was not suspended.

6 **Sec. 83.** RCW 75.30.460 and 1994 c 260 s 17 are each amended to
7 read as follows:

8 If fewer than one hundred seventy-five persons are eligible for
9 Dungeness crab-coastal fishery licenses, the director may accept
10 applications for new licenses. Additional licenses issued may maintain
11 a maximum of one hundred seventy-five licenses in the Washington
12 coastal crab fishery. If additional licenses are to be issued, the
13 director shall adopt rules governing the notification, application,
14 selection, and issuance procedures for new Dungeness crab-coastal
15 fishery licenses, based on recommendations of the advisory review board
16 established under RCW 75.30.050 (as recodified by this act).

17 **Sec. 84.** RCW 75.30.470 and 1994 c 260 s 19 are each amended to
18 read as follows:

19 The director may reduce the landing requirements established under
20 RCW 75.30.350 (as recodified by this act) upon the recommendation of an
21 advisory review board established under RCW 75.30.050 (as recodified by
22 this act), but the director may not entirely waive the landing
23 requirement. The advisory review board may recommend a reduction of
24 the landing requirement in individual cases if in the advisory review
25 board's judgment, extenuating circumstances prevented achievement of
26 the landing requirement. The director shall adopt rules governing the
27 operation of the advisory review board and defining "extenuating
28 circumstances." Extenuating circumstances may include situations in
29 which a person had a vessel under construction such that qualifying
30 landings could not be made. In defining extenuating circumstances,
31 special consideration shall be given to individuals who can provide
32 evidence of lack of access to capital based on past discrimination due
33 to race, creed, color, sex, national origin, or disability.

34 **Sec. 85.** RCW 75.40.020 and 1995 1st sp.s. c 2 s 19 are each
35 amended to read as follows:

1 The commission may give to the state of Oregon such consent and
2 approbation of the state of Washington as is necessary under the
3 compact set out in RCW 75.40.010 (as recodified by this act). For the
4 purposes of RCW 75.40.010 (as recodified by this act), the states of
5 Washington and Oregon have concurrent jurisdiction in the concurrent
6 waters of the Columbia river (~~(as defined in RCW 75.08.011)~~).

7 **Sec. 86.** RCW 75.40.110 and 1994 c 148 s 2 are each amended to read
8 as follows:

9 Until such time as the agencies in California, Idaho, Oregon, and
10 Washington present a final proposed interstate compact for enactment by
11 their respective legislative bodies, the governor may establish
12 cooperative agreements with the states of California, Idaho, and Oregon
13 that allow the states to coordinate their individual efforts in
14 developing state programs that further the region-wide goals set forth
15 under RCW 75.40.100 (as recodified by this act).

16 **Sec. 87.** RCW 75.44.100 and 1985 c 7 s 150 are each amended to read
17 as follows:

18 As used in this chapter:

19 (1) "Case areas" means those areas of the Western district of
20 Washington and in the adjacent offshore waters which are within the
21 jurisdiction of the state of Washington, as defined in *United States of*
22 *America et al. v. State of Washington et al.*, Civil No. 9213, United
23 States District Court for Western District of Washington, February 12,
24 1974, and in *Sohappy v. Smith*, 302 F. Supp. 899 (D. Oregon, 1969), as
25 amended, affirmed, and remanded 529 F. 2d 570 (9th Cir., 1976), or an
26 area in which fishing rights are affected by court decision in a manner
27 consistent with the above-mentioned decisions;

28 (2) "Program" means the program established under RCW 75.44.100
29 through 75.44.150 (as recodified by this act).

30 **Sec. 88.** RCW 75.44.120 and 1983 1st ex.s. c 46 s 157 are each
31 amended to read as follows:

32 The purchase price of a vessel and appurtenant gear shall be based
33 on a survey conducted by a qualified marine surveyor. A license or
34 delivery permit shall be valued separately.

35 The director may specify a maximum price to be paid for a vessel,
36 gear, license, or delivery permit purchased under RCW 75.44.110 (as

1 recodified by this act). A license or delivery permit purchased under
2 RCW 75.44.110 (as recodified by this act) shall be permanently retired
3 by the department.

4 **Sec. 89.** RCW 75.44.130 and 1983 1st ex.s. c 46 s 158 are each
5 amended to read as follows:

6 The department may arrange for the insurance, storage, and resale
7 or other disposition of vessels and gear purchased under RCW 75.44.110
8 (as recodified by this act). Vessels shall not be resold by the
9 department to the seller or the seller's immediate family. The vessels
10 shall not be used by any owner or operator: (1) As a commercial
11 fishing or charter vessel in state waters; or (2) to deliver fish to a
12 place or port in the state. The department shall require that the
13 purchasers and other users of vessels sold by the department execute
14 suitable instruments to insure compliance with the requirements of this
15 section. The director may commence suit or be sued on such an
16 instrument in a state court of record or United States district court
17 having jurisdiction.

18 **Sec. 90.** RCW 75.44.150 and 1983 1st ex.s. c 46 s 160 are each
19 amended to read as follows:

20 The director is responsible for the administration and disbursement
21 of all funds, goods, commodities, and services received by the state
22 under the program.

23 There is created within the state treasury a fund to be known as
24 the "vessel, gear, license, and permit reduction fund". This fund
25 shall be used for purchases under RCW 75.44.110 (as recodified by this
26 act) and for the administration of the program. This fund shall be
27 credited with federal or other funds received to carry out the purposes
28 of the program and the proceeds from the sale or other disposition of
29 property purchased under RCW 75.44.110 (as recodified by this act).

30 **Sec. 91.** RCW 75.46.010 and 1998 c 246 s 2 are each amended to read
31 as follows:

32 The definitions in this section apply throughout this chapter
33 unless the context clearly requires otherwise.

34 (1) "Adaptive management" means reliance on scientific methods to
35 test the results of actions taken so that the management and related
36 policy can be changed promptly and appropriately.

1 (2) "Critical pathways methodology" means a project scheduling and
2 management process for examining interactions between habitat projects
3 and salmonid species, prioritizing habitat projects, and assuring
4 positive benefits from habitat projects.

5 (3) "Habitat project list" is the list of projects resulting from
6 the critical pathways methodology under RCW 75.46.070(2) (as recodified
7 by this act). Each project on the list must have a written agreement
8 from the landowner on whose land the project will be implemented.
9 Projects include habitat restoration projects, habitat protection
10 projects, habitat projects that improve water quality, habitat projects
11 that protect water quality, habitat-related mitigation projects, and
12 habitat project maintenance and monitoring activities.

13 (4) "Habitat work schedule" means those projects from the habitat
14 project list that will be implemented during the current funding cycle.
15 The schedule shall also include a list of the entities and individuals
16 implementing projects, the start date, duration, estimated date of
17 completion, estimated cost, and funding sources for the projects.

18 (5) "Limiting factors" means conditions that limit the ability of
19 habitat to fully sustain populations of salmon. These factors are
20 primarily fish passage barriers and degraded estuarine areas, riparian
21 corridors, stream channels, and wetlands.

22 (6) "Project sponsor" is a county, city, special district, tribal
23 government, a combination of such governments through interlocal
24 agreements provided under chapter 39.34 RCW, a nonprofit organization,
25 or one or more private citizens.

26 (7) "Salmon" includes all species of the family Salmonidae which
27 are capable of self-sustaining, natural production.

28 (8) "Salmon recovery plan" means a state plan developed in response
29 to a proposed or actual listing under the federal endangered species
30 act that addresses limiting factors including, but not limited to
31 harvest, hatchery, hydropower, habitat, and other factors of decline.

32 (9) "Tribe" or "tribes" means federally recognized Indian tribes.

33 (10) "WRIA" means a water resource inventory area established in
34 chapter 173-500 WAC as it existed on January 1, 1997.

35 (11) "Owner" means the person holding title to the land or the
36 person under contract with the owner to lease or manage the legal
37 owner's property.

1 **Sec. 92.** RCW 75.46.040 and 1998 c 246 s 5 are each amended to read
2 as follows:

3 (1) The salmon recovery office is created within the office of the
4 governor to coordinate state strategy to allow for salmon recovery to
5 healthy sustainable population levels with productive commercial and
6 recreational fisheries. The primary purpose of the office is to
7 coordinate and assist in the development of salmon recovery plans for
8 evolutionarily significant units, and submit those plans to the
9 appropriate tribal governments and federal agencies in response to the
10 federal endangered species act. The governor's salmon recovery office
11 may also:

12 (a) Act as liaison to local governments, the state congressional
13 delegation, the United States congress, federally recognized tribes,
14 and the federal executive branch agencies for issues related to the
15 state's endangered species act salmon recovery plans; and

16 (b) Provide the biennial state of the salmon report to the
17 legislature pursuant to RCW 75.46.030 (as recodified by this act).

18 (2) This section expires June 30, 2006.

19 **Sec. 93.** RCW 75.46.050 and 1998 c 246 s 6 are each amended to read
20 as follows:

21 (1) The governor shall request the national academy of sciences,
22 the American fisheries society, or a comparable institution to screen
23 candidates to serve as members on the independent science panel. The
24 institution that conducts the screening of the candidates shall submit
25 a list of the nine most qualified candidates to the governor, the
26 speaker of the house of representatives, and the majority leader of the
27 senate. The candidates shall reflect expertise in habitat requirements
28 of salmon, protection and restoration of salmon populations, artificial
29 propagation of salmon, hydrology, or geomorphology.

30 (2) The speaker of the house of representatives and the majority
31 leader in the senate shall each remove one name from the nomination
32 list. The governor shall consult with tribal representatives and the
33 governor shall appoint five scientists from the remaining names on the
34 nomination list.

35 (3) The members of the independent science panel shall serve four-
36 year terms. The independent science panel members shall elect the
37 chair of the panel among themselves every two years. The members of
38 the independent science panel shall be compensated as provided in RCW

1 43.03.250 and reimbursed for travel expenses in accordance with RCW
2 43.03.050 and 43.03.060.

3 (4) The independent science panel shall be governed by generally
4 accepted guidelines and practices governing the activities of
5 independent science boards such as the national academy of sciences.
6 The purpose of the independent science panel is to help ensure that
7 sound science is used in salmon recovery efforts. The governor's
8 salmon recovery office shall request review of salmon recovery plans by
9 the science review panel. The science review panel does not have the
10 authority to review individual projects or project lists developed
11 under RCW 75.46.060, 75.46.070, and 75.46.080 (as recodified by this
12 act) or to make policy decisions.

13 (5) The independent science panel shall submit its findings to the
14 legislature and the governor.

15 **Sec. 94.** RCW 75.46.070 and 1998 c 246 s 8 are each amended to read
16 as follows:

17 (1) Critical pathways methodology shall be used to develop a
18 habitat project list and a habitat work schedule that ensures salmon
19 restoration activities will be prioritized and implemented in a logical
20 sequential manner that produces habitat capable of sustaining healthy
21 populations of salmon.

22 (2) The critical pathways methodology shall:

23 (a) Include a limiting factors analysis for salmon in streams,
24 rivers, tributaries, estuaries, and subbasins in the region. The
25 technical advisory group shall have responsibility for the limiting
26 factors analysis;

27 (b) Identify local habitat projects that sponsors are willing to
28 undertake. The projects identified must have a written agreement from
29 the landowner on which the project is to be implemented. Project
30 sponsors shall have the lead responsibility for this task;

31 (c) Identify how projects will be monitored and evaluated. The
32 project sponsor, in consultation with the technical advisory group and
33 the appropriate landowner, shall have responsibility for this task; and

34 (d) Describe the adaptive management strategy that will be used.
35 The committee established under RCW 75.46.060 (as recodified by this
36 act) shall have responsibility for this task. If a committee has not
37 been formed, the technical advisory group shall have the responsibility
38 for this task.

1 (3) The habitat work list shall include all projects developed
2 pursuant to subsection (2) of this section as well as any other salmon
3 habitat restoration project implemented in the region. The work list
4 shall also include the start date, duration, estimated date of
5 completion, estimated cost, and, if appropriate, the affected salmonid
6 species of each project. Each schedule shall be updated on an annual
7 basis to depict new activities.

8 **Sec. 95.** RCW 75.46.080 and 1998 c 246 s 9 are each amended to read
9 as follows:

10 (1) Representatives from the conservation commission, the
11 department of transportation, and the department of fish and wildlife
12 shall establish an interagency review team. Except as provided in
13 subsection (6) of this section, habitat restoration project lists shall
14 be submitted to the interagency review team by January 1st and July 1st
15 of each year beginning in 1999.

16 (2) If no lead entity has been formed under RCW 75.46.060 (as
17 recodified by this act), the interagency review team shall rank,
18 prioritize, and dispense funds for habitat restoration projects by
19 giving preference to the projects that:

20 (a) Provide a greater benefit to salmon recovery;

21 (b) Will be implemented in a more critical area;

22 (c) Are the most cost-effective;

23 (d) Have the greatest matched, or in-kind funding; and

24 (e) Will be implemented by a sponsor with a successful record of
25 project implementation.

26 (3) If a lead entity established under RCW 75.46.060 (as recodified
27 by this act) has been formed, the interagency review team shall
28 evaluate project lists and may remove, but not add, projects from a
29 habitat project list.

30 (4) The interagency review team shall provide a summary of funding
31 for habitat restoration project lists to the governor and to the
32 legislature by December 1st of each year.

33 (5) The interagency review team may annually establish a maximum
34 amount of funding available for any individual project, subject to
35 available funding. The interagency review team shall attempt to assure
36 a geographical balance in assigning priorities to projects.

37 (6) For fiscal year 1998, the department of fish and wildlife, the
38 conservation commission, and the department of transportation may

1 authorize, subject to appropriations, expenditures for projects that
2 have been developed to restore salmon habitat before completion of the
3 project lists required in RCW 75.46.060(2) (as recodified by this act).

4 (7) Where a lead entity has been established pursuant to RCW
5 75.46.060 (as recodified by this act), the interagency review team may
6 provide block grants to the lead entity, subject to available funding.

7 **Sec. 96.** RCW 75.46.090 and 1998 c 246 s 10 are each amended to
8 read as follows:

9 (1) The conservation commission, in consultation with local
10 government and the tribes, shall invite private, federal, state,
11 tribal, and local government personnel with appropriate expertise to
12 act as a technical advisory group.

13 (2) For state personnel, involvement on the technical advisory
14 group shall be at the discretion of the particular agency. Unless
15 specifically provided for in the budget, technical assistance
16 participants shall be provided from existing full-time equivalent
17 employees.

18 (3) The technical advisory group shall identify the limiting
19 factors for salmonids to respond to the limiting factors relating to
20 habitat pursuant to RCW 75.46.070(2) (as recodified by this act).

21 (4) Where appropriate, the conservation district within the area
22 implementing this chapter shall take the lead in developing and
23 maintaining relationships between the technical advisory group and the
24 private landowners under RCW 75.46.080 (as recodified by this act).
25 The conservation districts may assist landowners to organize around
26 river, tributary, estuary, or subbasins of a watershed.

27 (5) Fishery enhancement groups and other volunteer organizations
28 may participate in the activities under this section.

29 **Sec. 97.** RCW 75.46.100 and 1998 c 246 s 11 are each amended to
30 read as follows:

31 The sea grant program at the University of Washington is authorized
32 to provide technical assistance to volunteer groups and other project
33 sponsors in designing and performing habitat ~~((restoration))~~ projects
34 that address the limiting factors analysis of regional habitat work
35 plans. The cost for such assistance may be covered on a fee-for-
36 service basis.

1 **Sec. 98.** RCW 75.46.110 and 1998 c 246 s 12 are each amended to
2 read as follows:

3 The southwest Washington salmon recovery region, whose boundaries
4 are provided in chapter 60, Laws of 1998, is created. (~~If chapter 60,~~
5 ~~Laws of 1998 is not enacted by July 1, 1998, this section is null and~~
6 ~~void.~~)

7 **Sec. 99.** RCW 75.46.120 and 1998 c 246 s 16 are each amended to
8 read as follows:

9 (1) The departments of transportation, fish and wildlife, and
10 ecology, and tribes shall convene a work group to develop policy
11 guidance to evaluate mitigation alternatives. The policy guidance
12 shall be designed to enable committees established under RCW 75.46.060
13 (as recodified by this act) to develop and implement habitat project
14 lists that maximize environmental benefits from project mitigation
15 while reducing project design and permitting costs. The work group
16 shall seek technical assistance to ensure that federal, state, treaty
17 right, and local environmental laws and ordinances are met. The
18 purpose of this section is not to increase regulatory requirements or
19 expand departmental authority.

20 (2) The work group shall develop guidance for determining
21 alternative mitigation opportunities. Such guidance shall include
22 criteria and procedures for identifying and evaluating mitigation
23 opportunities within a watershed. Such guidance shall create
24 procedures that provide alternative mitigation that has a low risk to
25 the environment, yet has high net environmental, social, and economic
26 benefits compared to status quo options.

27 (3) The evaluation shall include:

28 (a) All elements of mitigation, including but not limited to data
29 requirements, decision making, state and tribal agency coordination,
30 and permitting; and

31 (b) Criteria and procedures for identifying and evaluating
32 mitigation opportunities, including but not limited to the criteria in
33 chapter 90.74 RCW.

34 (4) Committees established under RCW 75.46.060 (as recodified by
35 this act) shall coordinate voluntary collaborative efforts between
36 habitat project proponents and mitigation project proponents.
37 Mitigation funds may be used to implement projects identified by a work

1 plan to mitigate for the impacts of a transportation or other
2 development proposal or project.

3 (5) For the purposes of this section, "mitigation" has the same
4 meaning as provided in RCW 90.74.010.

5 **Sec. 100.** RCW 75.46.130 and 1998 c 246 s 17 are each amended to
6 read as follows:

7 Only those funds appropriated for the habitat restoration projects
8 under this chapter are subject to the requirements of RCW 75.46.080 (as
9 recodified by this act).

10 **Sec. 101.** RCW 75.48.100 and 1983 1st ex.s. c 46 s 170 are each
11 amended to read as follows:

12 The bonds authorized by this chapter shall be issued only after the
13 director has certified, based upon reasonable estimates and data
14 provided to the department, that sufficient revenues will be available
15 from sport and commercial salmon license sales and from salmon fees and
16 taxes to meet the requirements of RCW 75.48.080 (as recodified by this
17 act) during the life of the bonds.

18 **Sec. 102.** RCW 75.50.080 and 1997 c 389 s 5 are each amended to
19 read as follows:

20 Regional fisheries enhancement groups, consistent with the long-
21 term regional policy statements developed under RCW 75.50.020 (as
22 recodified by this act), shall seek to:

- 23 (1) Enhance the salmon and steelhead resources of the state;
24 (2) Maximize volunteer efforts and private donations to improve the
25 salmon and steelhead resources for all citizens;
26 (3) Assist the department in achieving the goal to double the
27 state-wide salmon and steelhead catch by the year 2000; and
28 (4) Develop projects designed to supplement the fishery enhancement
29 capability of the department.

30 **Sec. 103.** RCW 75.50.100 and 1998 c 245 s 155 and 1998 c 191 s 27
31 are each reenacted and amended to read as follows:

32 The dedicated regional fisheries enhancement group account is
33 created in the custody of the state treasurer. Only the commission or
34 the commission's designee may authorize expenditures from the account.

1 The account is subject to allotment procedures under chapter 43.88 RCW,
2 but no appropriation is required for expenditures.

3 A portion of each recreational fishing license fee shall be used as
4 provided in RCW 77.32.440. A surcharge of one hundred dollars shall be
5 collected on each commercial salmon fishery license, each salmon
6 delivery license, and each salmon charter license sold in the state.
7 All receipts shall be placed in the regional fisheries enhancement
8 group account and shall be used exclusively for regional fisheries
9 enhancement group projects for the purposes of RCW 75.50.110 (as
10 recodified by this act). Funds from the regional fisheries enhancement
11 group account shall not serve as replacement funding for department
12 operated salmon projects that exist on January 1, 1991.

13 All revenue from the department's sale of salmon carcasses and eggs
14 that return to group facilities shall be deposited in the regional
15 fisheries enhancement group account for use by the regional fisheries
16 enhancement group that produced the surplus. The commission shall
17 adopt rules to implement this section pursuant to chapter 34.05 RCW.

18 **Sec. 104.** RCW 75.50.105 and 1997 c 389 s 2 are each amended to
19 read as follows:

20 The department may provide start-up funds to regional fisheries
21 enhancement groups for costs associated with any enhancement project.
22 The regional fisheries enhancement group advisory board and the
23 (~~department~~) commission shall develop guidelines for providing funds
24 to the regional fisheries enhancement groups.

25 **Sec. 105.** RCW 75.50.110 and 1995 1st sp.s. c 2 s 40 and 1995 c 367
26 s 5 are each reenacted and amended to read as follows:

27 (1) A regional fisheries enhancement group advisory board is
28 established to make recommendations to the commission. The members
29 shall be appointed by the commission and consist of two commercial
30 fishing representatives, two recreational fishing representatives, and
31 three at-large positions. At least two of the advisory board members
32 shall be members of a regional fisheries enhancement group. Advisory
33 board members shall serve three-year terms. The advisory board
34 membership shall include two members serving ex officio to be
35 nominated, one through the Northwest Indian fisheries commission, and
36 one through the Columbia river intertribal fish commission. The chair
37 of the regional fisheries enhancement group advisory board shall be

1 elected annually by members of the regional fisheries enhancement
2 (~~(group)~~) group advisory board. The advisory board shall meet at
3 least quarterly. All meetings of the advisory board shall be open to
4 the public under the open public meetings act, chapter 42.30 RCW.

5 The department shall invite the advisory board to comment and
6 provide input into all relevant policy initiatives, including, but not
7 limited to, wild stock, hatcheries, and habitat restoration efforts.

8 (2) Members shall not be compensated but shall receive
9 reimbursement for travel expenses in accordance with RCW 43.03.050 and
10 43.03.060.

11 (3) The department may use account funds to provide agency
12 assistance to the groups, to provide professional, administrative or
13 clerical services to the advisory board, or to implement the training
14 and technical (~~(assistance)~~) assistance services plan as developed by
15 the advisory board pursuant to RCW 75.50.115 (as recodified by this
16 act). The level of account funds used by the department shall be
17 determined by the commission after review of recommendation by the
18 regional fisheries enhancement group advisory board and shall not
19 exceed twenty percent of annual contributions to the account.

20 **Sec. 106.** RCW 75.50.115 and 1998 c 96 s 1 are each amended to read
21 as follows:

22 (1) The regional fisheries enhancement group advisory board shall:

23 (a) Assess the training and technical assistance needs of the
24 regional fisheries enhancement groups;

25 (b) Develop a training and technical assistance services plan in
26 order to provide timely, topical technical assistance and training
27 services to regional fisheries enhancement groups. The plan shall be
28 provided to the director and to the senate and house of representatives
29 natural resources committees no later than October 1, 1995, and shall
30 be updated not less than every year. The advisory board shall provide
31 ample opportunity for the public and interested parties to participate
32 in the development of the plan. The plan shall include but is not
33 limited to:

34 (i) Establishment of an information clearinghouse service that is
35 readily available to regional fisheries enhancement groups. The
36 information clearinghouse shall collect, collate, and make available a
37 broad range of information on subjects that affect the development,
38 implementation, and operation of diverse fisheries and habitat

1 enhancement projects. The information clearinghouse service may
2 include periodical news and informational bulletins;

3 (ii) An ongoing program in order to provide direct, on-site
4 technical assistance and services to regional fisheries enhancement
5 groups. The advisory board shall assist regional fisheries enhancement
6 groups in soliciting federal, state, and local agencies, tribal
7 governments, institutions of higher education, and private business for
8 the purpose of providing technical assistance and services to regional
9 fisheries enhancement group projects; and

10 (iii) A cost estimate for implementing the plan;

11 (c) Propose a budget to the director for operation of the advisory
12 board and implementation of the technical assistance plan;

13 (d) Make recommendations to the director regarding regional
14 enhancement group project proposals and funding of those proposals; and

15 (e) Establish criteria for the redistribution of unspent project
16 funds for any regional enhancement group that has a year ending balance
17 exceeding one hundred thousand dollars.

18 (2) The regional fisheries enhancement group advisory board may:

19 (a) Facilitate resolution of disputes between regional fisheries
20 enhancement groups and the department;

21 (b) Promote community and governmental partnerships that enhance
22 the salmon resource and habitat;

23 (c) Promote environmental ethics and watershed stewardship;

24 (d) Advocate for watershed management and restoration;

25 (e) Coordinate regional fisheries enhancement group workshops and
26 training;

27 (f) Monitor and evaluate regional fisheries enhancement projects;

28 (g) Provide guidance to regional fisheries enhancement groups; and

29 (h) Develop recommendations to the director to address identified
30 impediments to the success of regional fisheries enhancement groups.

31 (3)(a) The regional fisheries enhancement group advisory board
32 shall develop recommendations for limitations on the amount of overhead
33 that a regional fisheries enhancement group may charge from each of the
34 following categories of funding provided to the group:

35 (i) Federal funds;

36 (ii) State funds;

37 (iii) Local funds; and

38 (iv) Private donations.

1 (b) The advisory board shall develop recommendations for
2 limitations on the number and salary of paid employees that are
3 employed by a regional fisheries enhancement group. The regional
4 fisheries enhancement group advisory board shall adhere to the founding
5 principles for regional groups that emphasize the volunteer nature of
6 the groups, maximization of field-related fishery resource benefits,
7 and minimization of overhead.

8 (c) The advisory board shall evaluate and make recommendations for
9 the limitation or elimination of commissions, finders fees, or other
10 reimbursements to regional fisheries enhancement group employees.

11 ~~((d) The regional fisheries enhancement group advisory board shall
12 report to the appropriate legislative committees by January 1, 1999, on
13 the board recommendations for overhead limitations, paid employee
14 limitations, and commission limitations for regional fisheries
15 enhancement groups.))~~

16 **Sec. 107.** RCW 75.50.160 and 1997 c 389 s 6 are each amended to
17 read as follows:

18 The department and the department of transportation shall convene
19 a fish passage barrier removal task force. The task force shall
20 consist of one representative each from the department, the department
21 of transportation, the department of ecology, tribes, cities, counties,
22 a business organization, an environmental organization, regional
23 fisheries enhancement groups, and other interested entities as deemed
24 appropriate by the cochairs. The persons representing the department
25 and the department of transportation shall serve as cochairs of the
26 task force and shall appoint members to the task force. The task force
27 shall make recommendations to expand the program in RCW 75.50.170 (as
28 recodified by this act) to identify and expedite the removal of human-
29 made or caused impediments to anadromous fish passage in the most
30 efficient manner practical. Program recommendations shall include a
31 funding mechanism and other necessary mechanisms to coordinate and
32 prioritize state, tribal, local, and volunteer efforts within each
33 water resource inventory area. A priority shall be given to projects
34 that immediately increase access to available and improved spawning and
35 rearing habitat for depressed, threatened, and endangered stocks. The
36 department or the department of transportation may contract with cities
37 and counties to assist in the identification and removal of impediments
38 to anadromous fish passage.

1 (~~(A report on the recommendations to develop a program to identify~~
2 ~~and remove fish passage barriers and any additional legislative action~~
3 ~~needed to implement the program shall be submitted to the appropriate~~
4 ~~standing committees of the legislature no later than December 1,~~
5 ~~1997.)~~)

6 **Sec. 108.** RCW 75.52.020 and 1993 sp.s. c 2 s 50 are each amended
7 to read as follows:

8 Unless the context clearly requires otherwise, the definitions in
9 this section apply throughout this chapter.

10 (1) "Volunteer group" means any person or group of persons
11 interested in or party to an agreement with the department relating to
12 a cooperative fish or wildlife project.

13 (2) "Cooperative project" means a project conducted by a volunteer
14 group that will benefit the fish, shellfish, game bird, nongame
15 wildlife, or game animal resources of the state and for which the
16 benefits of the project, including fish and wildlife reared and
17 released, are available to all citizens of the state. Indian tribes
18 may elect to participate in cooperative fish and wildlife projects with
19 the department.

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

21 **Sec. 109.** RCW 75.52.050 and 1995 1st sp.s. c 2 s 42 are each
22 amended to read as follows:

23 The commission shall establish by rule:

24 (1) The procedure for entering a cooperative agreement and the
25 application forms for a permit to release fish or wildlife required by
26 RCW 75.08.295 (~~(or 77.16.150)~~) (as recodified by this act). The
27 procedure shall indicate the information required from the volunteer
28 group as well as the process of review by the department. The process
29 of review shall include the means to coordinate with other agencies and
30 Indian tribes when appropriate and to coordinate the review of any
31 necessary hydraulic permit approval applications.

32 (2) The procedure for providing within forty-five days of receipt
33 of a proposal a written response to the volunteer group indicating the
34 date by which an acceptance or rejection of the proposal can be
35 expected, the reason why the date was selected, and a written summary
36 of the process of review. The response should also include any
37 suggested modifications to the proposal which would increase its

1 likelihood of approval and the date by which such modified proposal
2 could be expected to be accepted. If the proposal is rejected, the
3 department must provide in writing the reasons for rejection. The
4 volunteer group may request the director or the director's designee to
5 review information provided in the response.

6 (3) The priority of the uses to which eggs, seed, juveniles, or
7 brood stock are put. Use by cooperative projects shall be second in
8 priority only to the needs of programs of the department or of other
9 public agencies within the territorial boundaries of the state. Sales
10 of eggs, seed, juveniles, or brood stock have a lower priority than use
11 for cooperative projects.

12 (4) The procedure for (~~notice in writing to a volunteer group of~~
13 ~~cause to revoke~~) the director to notify a volunteer group that the
14 agreement for the project is being revoked for cause and the procedure
15 for revocation. Revocation shall be documented in writing to the
16 volunteer group. Cause for revocation may include: (a) The
17 unavailability of adequate biological or financial resources; (b) the
18 development of unacceptable biological or resource management
19 conflicts; or (c) a violation of agreement provisions. Notice of cause
20 to revoke for a violation of agreement provisions may specify a
21 reasonable period of time within which the volunteer group must comply
22 with any violated provisions of the agreement.

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

25 **Sec. 110.** RCW 75.52.070 and 1984 c 72 s 7 are each amended to read
26 as follows:

27 (1) The volunteer group shall:

28 (a) Provide care and diligence in conducting the cooperative
29 project; and

30 (b) Maintain accurately the required records of the project on
31 forms provided by the department.

32 (2) The volunteer group shall acknowledge that fish and game reared
33 in cooperative projects are public property and must be handled and
34 released for the benefit of all citizens of the state. The fish and
35 game are to remain public property until reduced to private ownership
36 under rules of the (~~department~~) commission.

1 **Sec. 111.** RCW 75.52.100 and 1993 sp.s. c 2 s 52 are each amended
2 to read as follows:

3 A salmon spawning channel shall be constructed on the Cedar river
4 with the assistance and cooperation of the department. The department
5 shall use existing personnel and the volunteer fisheries enhancement
6 program outlined under chapter 75.52 RCW (as recodified by this act) to
7 assist in the planning, construction, and operation of the spawning
8 channel.

9 **Sec. 112.** RCW 75.52.110 and 1998 c 245 s 156 are each amended to
10 read as follows:

11 The department shall chair a technical committee, which shall
12 review the preparation of enhancement plans and construction designs
13 for a Cedar river sockeye spawning channel. The technical committee
14 shall consist of not more than eight members: One representative each
15 from the department, national marine fisheries service, United States
16 fish and wildlife service, and Muckleshoot Indian tribe; and four
17 representatives from the public utility described in RCW 75.52.130 (as
18 recodified by this act). The technical committee will be guided by a
19 policy committee, also to be chaired by the department, which shall
20 consist of not more than six members: One representative from the
21 department, one from the Muckleshoot Indian tribe, and one from either
22 the national marine fisheries service or the United States fish and
23 wildlife service; and three representatives from the public utility
24 described in RCW 75.52.130 (as recodified by this act). The policy
25 committee shall oversee the operation and evaluation of the spawning
26 channel. The policy committee will continue its oversight until the
27 policy committee concludes that the channel is meeting the production
28 goals specified in RCW 75.52.120 (as recodified by this act).

29 **Sec. 113.** RCW 75.52.130 and 1989 c 85 s 6 are each amended to read
30 as follows:

31 The legislature recognizes that, if funding for planning, design,
32 evaluation, construction, and operating expenses is provided by a
33 public utility that diverts water for beneficial public use, and if the
34 performance of the spawning channel meets the production goals
35 described in RCW 75.52.120 (as recodified by this act), the spawning
36 channel project will serve, at a minimum, as compensation for lost
37 sockeye salmon spawning habitat upstream of the Landsburg diversion.

1 The amount of funding to be supplied by (~~said~~) the utility will fully
2 fund the total cost of planning, design, evaluation, and construction
3 of the spawning channel.

4 **Sec. 114.** RCW 75.52.140 and 1989 c 85 s 7 are each amended to read
5 as follows:

6 In order to provide operation and maintenance funds for the
7 facility authorized by RCW 75.52.100 through 75.52.160 (as recodified
8 by this act), the utility shall place two million five hundred thousand
9 dollars in the state general fund Cedar river channel construction and
10 operation account herein created. The interest from the fund shall be
11 used for operation and maintenance of the spawning channel and any
12 unused interest shall be added to the fund to increase the principal to
13 cover possible future operation cost increases. The state treasurer
14 may invest funds from the account as provided by law.

15 **Sec. 115.** RCW 75.52.160 and 1993 sp.s. c 2 s 54 are each amended
16 to read as follows:

17 Should the requirements of RCW 75.52.100 through 75.52.160 (as
18 recodified by this act) not be met, the department shall seek immediate
19 legal clarification of the steps which must be taken to fully mitigate
20 water diversion projects on the Cedar river.

21 **Sec. 116.** RCW 75.54.140 and 1998 c 191 s 28 are each amended to
22 read as follows:

23 As provided in RCW 77.32.440, a portion of each saltwater and
24 combination fishing license fee shall be deposited in the recreational
25 fisheries enhancement account created in RCW 75.54.150 (as recodified
26 by this act).

27 **Sec. 117.** RCW 75.54.150 and 1993 sp.s. c 2 s 98 are each amended
28 to read as follows:

29 The recreational fisheries enhancement account is created in the
30 state treasury. All receipts from RCW 75.54.140 (as recodified by this
31 act) shall be deposited into the account. Moneys in the account may be
32 spent only after appropriation. Expenditures from the account may be
33 used only for recreational fisheries enhancement programs.

1 **Sec. 118.** RCW 75.56.050 and 1998 c 60 s 2 are each amended to read
2 as follows:

3 (1) A pilot program for steelhead recovery is established in Clark,
4 Cowlitz, Lewis, Skamania, and Wahkiakum counties within the habitat
5 area classified as evolutionarily significant unit 4 by the federal
6 national marine fisheries service. The management board created under
7 subsection (2) of this section is responsible for implementing the
8 habitat portion of the approved steelhead recovery initiative and is
9 empowered to receive and disburse funds for the approved steelhead
10 recovery initiative. The management board created pursuant to this
11 section shall constitute the ~~((regional council for this area
12 responsible for fulfilling the requirements and exercising the powers
13 of a regional council under chapter 246, Laws of 1998))~~ lead entity and
14 the committee established under RCW 75.46.060 (as recodified by this
15 act) responsible for fulfilling the requirements and exercising powers
16 under this chapter.

17 (2) A management board consisting of fifteen voting members is
18 created within evolutionarily significant unit 4. The members shall
19 consist of one county commissioner or designee from each of the five
20 participating counties selected by each county legislative authority;
21 one member representing the cities contained within evolutionarily
22 significant unit 4 as a voting member selected by the cities in
23 evolutionarily significant unit 4; a representative of the Cowlitz
24 Tribe appointed by the tribe; one state legislator elected from one of
25 the legislative districts contained within evolutionarily significant
26 unit 4 selected by that group of state legislators representing the
27 area; five representatives to include at least one member who
28 represents private property interests appointed by the five county
29 commissioners or designees; one hydro utility representative nominated
30 by hydro utilities and appointed by the five county commissioners or
31 designees; and one representative nominated from the environmental
32 community who resides in evolutionarily significant unit 4 appointed by
33 the five county commissioners or designees. The board shall appoint
34 and consult a technical advisory committee, which shall include four
35 representatives of state agencies one each appointed by the directors
36 of the departments of ecology, fish and wildlife, and transportation,
37 and the commissioner of public lands. The board may also appoint
38 additional persons to the technical advisory committee as needed. The
39 chair of the board shall be selected from among the five county

1 commissioners or designees and the legislator on the board. In making
2 appointments under this subsection, the county commissioners shall
3 consider recommendations of interested parties. Vacancies shall be
4 filled in the same manner as the original appointments were selected.
5 No action may be brought or maintained against any management board
6 member, the management board, or any of its agents, officers, or
7 employees for any noncontractual acts or omissions in carrying out the
8 purposes of this section.

9 (3)(a) The management board shall participate in the development of
10 a recovery plan to implement its responsibilities under (b) of this
11 subsection. The management board shall consider local watershed
12 efforts and activities as well as habitat conservation plans in the
13 implementation of the recovery plan. Any of the participating counties
14 may continue its own efforts for restoring steelhead habitat. Nothing
15 in this section limits the authority of units of local government to
16 enter into interlocal agreements under chapter 39.34 RCW or any other
17 provision of law.

18 (b) The management board is responsible for implementing the
19 habitat portions of the local government responsibilities of the lower
20 Columbia steelhead conservation initiative approved by the state and
21 the national marine fisheries service. The management board may work
22 in cooperation with the state and the national marine fisheries service
23 to modify the initiative, or to address habitat for other aquatic
24 species that may be subsequently listed under the federal endangered
25 species act. The management board may not exercise authority over land
26 or water within the individual counties or otherwise preempt the
27 authority of any units of local government.

28 (c) The management board shall prioritize as appropriate and
29 approve projects and programs related to the recovery of lower Columbia
30 river steelhead runs, including the funding of those projects and
31 programs, and coordinate local government efforts as prescribed in the
32 recovery plan. The management board shall establish criteria for
33 funding projects and programs based upon their likely value in
34 steelhead recovery. The management board may consider local economic
35 impact among the criteria, but jurisdictional boundaries and factors
36 related to jurisdictional population may not be considered as part of
37 the criteria.

38 (d) The management board shall assess the factors for decline along
39 each prioritized stream as listed in the lower Columbia steelhead

1 conservation initiative. The management board is encouraged to take a
2 stream-by-stream approach in conducting the assessment which utilizes
3 state and local expertise, including volunteer groups, interest groups,
4 and affected units of local government.

5 (4) The management board has the authority to hire and fire staff,
6 including an executive director, enter into contracts, accept grants
7 and other moneys, disburse funds, make recommendations to cities and
8 counties about potential code changes and the development of programs
9 and incentives upon request, pay all necessary expenses, and may choose
10 a fiduciary agent. The management board shall report on its progress
11 on a quarterly basis to the legislative bodies of the five
12 participating counties and the state natural resource-related agencies.
13 The management board shall prepare a final report at the conclusion of
14 the pilot program describing its efforts and successes in implementing
15 the habitat portion of the lower Columbia steelhead conservation
16 initiative. The final report shall be transmitted to the appropriate
17 committees of the legislature, the legislative bodies of the
18 participating counties, and the state natural resource-related
19 agencies.

20 (5) The pilot program terminates on July 1, 2002.

21 (6) For purposes of this section, "evolutionarily significant unit"
22 means the habitat area identified for an evolutionarily significant
23 unit of an aquatic species listed or proposed for listing as a
24 threatened or endangered species under the federal endangered species
25 act (16 U.S.C. Sec. 1531 et seq.).

26 **Sec. 119.** RCW 75.58.010 and 1998 c 190 s 110 are each amended to
27 read as follows:

28 (1) The director of agriculture and the director shall jointly
29 develop a program of disease inspection and control for aquatic farmers
30 as defined in RCW 15.85.020. The program shall be administered by the
31 department under rules established under this section. The purpose of
32 the program is to protect the aquaculture industry and wildstock
33 fisheries from a loss of productivity due to aquatic diseases or
34 maladies. As used in this section "diseases" means, in addition to its
35 ordinary meaning, infestations of parasites or pests. The disease
36 program may include, but is not limited to, the following elements:

37 (a) Disease diagnosis;

38 (b) Import and transfer requirements;

- 1 (c) Provision for certification of stocks;
2 (d) Classification of diseases by severity;
3 (e) Provision for treatment of selected high-risk diseases;
4 (f) Provision for containment and eradication of high-risk
5 diseases;
6 (g) Provision for destruction of diseased cultured aquatic
7 products;
8 (h) Provision for quarantine of diseased cultured aquatic products;
9 (i) Provision for coordination with state and federal agencies;
10 (j) Provision for development of preventative or control measures;
11 (k) Provision for cooperative consultation service to aquatic
12 farmers; and
13 (l) Provision for disease history records.

14 (2) The commission shall adopt rules implementing this section.
15 However, such rules shall have the prior approval of the director of
16 agriculture and shall provide therein that the director of agriculture
17 has provided such approval. The director of agriculture or the
18 director's designee shall attend the rule-making hearings conducted
19 under chapter 34.05 RCW and shall assist in conducting those hearings.
20 The authorities granted the department by these rules and by RCW
21 (~~(75.08.080(1)(g))~~) 75.24.080, 75.24.110, 75.28.125, 75.58.020,
22 75.58.030, and 75.58.040 (as recodified by this act) constitute the
23 only authorities of the department to regulate private sector cultured
24 aquatic products and aquatic farmers as defined in RCW 15.85.020.
25 Except as provided in subsection (3) of this section, no action may be
26 taken against any person to enforce these rules unless the department
27 has first provided the person an opportunity for a hearing. In such a
28 case, if the hearing is requested, no enforcement action may be taken
29 before the conclusion of that hearing.

30 (3) The rules adopted under this section shall specify the
31 emergency enforcement actions that may be taken by the department, and
32 the circumstances under which they may be taken, without first
33 providing the affected party with an opportunity for a hearing.
34 Neither the provisions of this subsection nor the provisions of
35 subsection (2) of this section shall preclude the department from
36 requesting the initiation of criminal proceedings for violations of the
37 disease inspection and control rules.

1 (4) A person shall not violate the rules adopted under subsection
2 (2) or (3) of this section or violate RCW 75.58.040 (as recodified by
3 this act).

4 (5) In administering the program established under this section,
5 the department shall use the services of a pathologist licensed to
6 practice veterinary medicine.

7 (6) The director in administering the program shall not place
8 constraints on or take enforcement actions in respect to the
9 aquaculture industry that are more rigorous than those placed on the
10 department or other fish-rearing entities.

11 **Sec. 120.** RCW 75.58.020 and 1993 sp.s. c 2 s 56 are each amended
12 to read as follows:

13 The directors of agriculture and fish and wildlife shall jointly
14 adopt by rule, in the manner prescribed in RCW 75.58.010(2) (as
15 recodified by this act), a schedule of user fees for the disease
16 inspection and control program established under RCW 75.58.010 (as
17 recodified by this act). The fees shall be established such that the
18 program shall be entirely funded by revenues derived from the user fees
19 by the beginning of the 1987-89 biennium.

20 There is established in the state treasury an account known as the
21 aquaculture disease control account which is subject to appropriation.
22 Proceeds of fees charged under this section shall be deposited in the
23 account. Moneys from the account shall be used solely for
24 administering the disease inspection and control program established
25 under RCW 75.58.010 (as recodified by this act).

26 **Sec. 121.** RCW 75.58.030 and 1993 sp.s. c 2 s 57 are each amended
27 to read as follows:

28 (1) The director shall consult regarding the disease inspection and
29 control program established under RCW 75.58.010 (as recodified by this
30 act) with federal agencies and Indian tribes to assure protection of
31 state, federal, and tribal aquatic resources and to protect private
32 sector cultured aquatic products from disease that could originate from
33 waters or facilities managed by those agencies.

34 (2) With regard to the program, the director may enter into
35 contracts or interagency agreements for diagnostic field services with
36 government agencies and institutions of higher education and private
37 industry.

1 (3) The director shall provide for the creation and distribution of
2 a roster of biologists having a (~~speciality~~ [~~specialty~~]) specialty in
3 the diagnosis or treatment of diseases of fish or shellfish. The
4 director shall adopt rules specifying the qualifications which a person
5 must have in order to be placed on the roster.

6 **Repealed Sections**

7 NEW SECTION. **Sec. 122.** The following acts or parts of acts are
8 each repealed:

9 (1) RCW 75.08.010 (Fisheries Code) and 1983 1st ex.s. c 46 s 2 &
10 1955 c 12 s 75.08.010;

11 (2) RCW 75.08.011 (Definitions) and 1998 c 190 s 70, 1996 c 267 s
12 2, 1995 1st sp.s. c 2 s 6, & 1994 c 255 s 2;

13 (3) RCW 75.08.014 (Authority of director to administer department--
14 Qualifications of director) and 1995 1st sp.s. c 2 s 22, 1993 sp.s. c
15 2 s 21, 1983 1st ex.s. c 46 s 6, & 1953 c 207 s 10;

16 (4) RCW 75.08.035 (Senior environmental corps--Department powers
17 and duties) and 1993 sp.s. c 2 s 22 & 1992 c 63 s 11;

18 (5) RCW 75.08.040 (Acquisition, use, and management of lands, water
19 rights, rights of way, and personal property) and 1995 1st sp.s. c 2 s
20 23, 1983 1st ex.s. c 46 s 9, 1955 c 212 s 1, & 1955 c 12 s 75.08.040;

21 (6) RCW 75.08.274 (Taking food fish for propagation or scientific
22 purposes--Permit required) and 1998 c 190 s 72, 1995 1st sp.s. c 2 s
23 15, 1983 1st ex.s. c 46 s 28, 1971 c 35 s 1, & 1955 c 12 s 75.16.010;

24 (7) RCW 75.10.070 (Service of summons and forfeiture if unable to
25 prosecute violator) and 1983 1st ex.s. c 46 s 38 & 1955 c 12 s
26 75.36.030;

27 (8) RCW 75.10.160 (Enforcement of watercraft registration and
28 boating safety education) and 1989 c 393 s 16;

29 (9) RCW 75.25.090 (Personal use fishing licenses--Fees) and 1993 c
30 215 s 1, 1989 c 305 s 5, & 1987 c 87 s 1;

31 (10) RCW 75.25.160 (Recreational licenses--Penalties) and 1989 c
32 305 s 15, 1987 c 87 s 8, 1984 c 80 s 10, 1983 1st ex.s. c 46 s 100, &
33 1977 ex.s. c 327 s 16;

34 (11) RCW 75.25.210 (Duplicate licenses, permits, tags, stamps, and
35 catch record cards--Fees) and 1994 c 255 s 9;

36 (12) RCW 75.28.012 (Licensing districts--Created) and 1993 c 20 s
37 3, 1983 1st ex.s. c 46 s 102, 1971 ex.s. c 283 s 2, & 1957 c 171 s 1;

1 (13) RCW 75.28.335 (Wholesale fish dealers--Additional penalties)
2 and 1985 c 248 s 8; and
3 (14) RCW 75.30.160 (Whiting license required in designated areas)
4 and 1998 c 190 s 103, 1993 c 340 s 38, & 1986 c 198 s 6.

5 **Recodified Sections**

6 NEW SECTION. **Sec. 123.** RCW 75.08.012, 75.08.013, 75.08.020,
7 75.08.090, and 75.08.110 are each recodified as sections in chapter
8 77.04 RCW.

9 NEW SECTION. **Sec. 124.** RCW 75.08.025, 75.08.045, 75.08.055,
10 75.08.058, 75.08.065, 75.08.070, 75.08.080, 75.08.120, 75.08.160,
11 75.08.206, 75.08.208, 75.08.230, 75.08.235, 75.08.255, 75.08.265,
12 75.08.285, 75.08.295, and 75.08.300 are each recodified as sections in
13 chapter 77.12 RCW.

14 NEW SECTION. **Sec. 125.** RCW 75.12.010, 75.12.015, 75.12.040,
15 75.12.132, 75.12.140, 75.12.155, 75.12.210, 75.12.230, 75.12.390,
16 75.12.440, and 75.12.650 are each recodified as sections in a new
17 chapter in Title 77 RCW.

18 NEW SECTION. **Sec. 126.** RCW 75.20.005, 75.20.015, 75.20.025,
19 75.20.040, 75.20.050, 75.20.060, 75.20.061, 75.20.090, 75.20.098,
20 75.20.100, 75.20.1001, 75.20.103, 75.20.104, 75.20.1041, 75.20.106,
21 75.20.108, 75.20.110, 75.20.130, 75.20.140, 75.20.150, 75.20.160,
22 75.20.170, 75.20.180, 75.20.190, 75.20.310, 75.20.320, 75.20.325,
23 75.20.330, 75.20.340, 75.20.350, and 77.12.830 are each recodified as
24 sections in a new chapter added to Title 77 RCW.

25 NEW SECTION. **Sec. 127.** RCW 75.24.010, 75.24.030, 75.24.060,
26 75.24.065, 75.24.070, 75.24.080, 75.24.100, 75.24.110, 75.24.120,
27 75.24.130, 75.24.140, and 75.24.150 are each recodified as sections in
28 a new chapter in Title 77 RCW.

29 NEW SECTION. **Sec. 128.** RCW 75.28.010, 75.28.011, 75.28.014,
30 75.28.020, 75.28.030, 75.28.034, 75.28.040, 75.28.042, 75.28.044,
31 75.28.045, 75.28.046, 75.28.047, 75.28.048, 75.28.055, 75.28.095,
32 75.28.110, 75.28.113, 75.28.116, 75.28.120, 75.28.125, 75.28.130,

1 75.28.132, 75.28.133, 75.28.280, 75.28.290, 75.28.295, 75.28.300,
2 75.28.302, 75.28.305, 75.28.315, 75.28.323, 75.28.328, 75.28.340,
3 75.28.690, 75.28.700, 75.28.710, 75.28.720, 75.28.730, 75.28.740,
4 75.28.750, 75.28.760, 75.28.770, 75.28.780, 75.28.900, 77.32.191,
5 77.32.197, 77.32.199, and 77.32.211 are each recodified as sections in
6 a new chapter in Title 77 RCW.

7 NEW SECTION. **Sec. 129.** RCW 75.30.015, 75.30.021, 75.30.050,
8 75.30.060, 75.30.065, 75.30.070, 75.30.090, 75.30.100, 75.30.120,
9 75.30.125, 75.30.130, 75.30.140, 75.30.170, 75.30.180, 75.30.210,
10 75.30.220, 75.30.230, 75.30.240, 75.30.250, 75.30.260, 75.30.270,
11 75.30.280, 75.30.290, 75.30.300, 75.30.310, 75.30.320, 75.30.330,
12 75.30.350, 75.30.360, 75.30.370, 75.30.380, 75.30.390, 75.30.410,
13 75.30.420, 75.30.430, 75.30.440, 75.30.450, 75.30.460, 75.30.470, and
14 75.30.480 are each recodified as sections in a new chapter in Title 77
15 RCW.

16 NEW SECTION. **Sec. 130.** A new chapter is added to Title 77 RCW and
17 is named "Compacts and other agreements." The following sections are
18 recodified under the following subchapter headings:

19 (1) "Columbia river compact" as follows:

20 RCW 75.40.010; and

21 RCW 75.40.020.

22 (2) "Pacific marine fisheries compact" as follows:

23 RCW 75.40.030; and

24 RCW 75.40.040.

25 (3) "Coastal ecosystems compact" as follows:

26 RCW 75.40.100; and

27 RCW 75.40.110.

28 (4) "Wildlife violator compact" as follows:

29 RCW 77.17.010;

30 RCW 77.17.020; and

31 RCW 77.17.030.

32 (5) "Snake river boundary" as follows:

33 RCW 77.12.450;

34 RCW 77.12.470;

35 RCW 77.12.480; and

36 RCW 77.12.490.

37 (6) "Miscellaneous" as follows:

1 RCW 75.40.060;
2 RCW 77.12.430; and
3 RCW 77.12.440.

4 NEW SECTION. **Sec. 131.** RCW 75.44.100, 75.44.110, 75.44.120,
5 75.44.130, 75.44.140, and 75.44.150 are each recodified as sections in
6 a new chapter in Title 77 RCW.

7 NEW SECTION. **Sec. 132.** RCW 75.46.005, 75.46.010, 75.46.020,
8 75.46.030, 75.46.040, 75.46.050, 75.46.060, 75.46.070, 75.46.080,
9 75.46.090, 75.46.100, 75.46.110, 75.46.120, 75.46.130, 75.56.050, and
10 75.46.900 are each recodified as sections in a new chapter in Title 77
11 RCW.

12 NEW SECTION. **Sec. 133.** RCW 75.48.020, 75.48.040, 75.48.050,
13 75.48.060, 75.48.070, 75.48.080, 75.48.100, and 75.48.110 are each
14 recodified as sections in a new chapter in Title 77 RCW.

15 NEW SECTION. **Sec. 134.** RCW 75.50.010, 75.50.020, 75.50.030,
16 75.50.040, 75.50.060, 75.50.070, 75.50.080, 75.50.090, 75.50.100,
17 75.50.105, 75.50.110, 75.50.115, 75.50.125, 75.50.130, 75.50.150,
18 75.50.160, 75.50.165, 75.50.170, 75.50.180, 75.50.190, 75.08.245,
19 75.08.400, 75.08.410, 75.08.420, 75.08.430, 75.08.440, 75.08.450,
20 75.08.500, 75.08.510, 75.08.520, 75.08.530, and 75.50.900 are each
21 recodified as sections in a new chapter in Title 77 RCW.

22 NEW SECTION. **Sec. 135.** RCW 75.52.010, 75.52.020, 75.52.030,
23 75.52.035, 75.52.040, 75.52.050, 75.52.060, 75.52.070, 75.08.047,
24 75.52.080, 75.52.100, 75.52.110, 75.52.120, 75.52.130, 75.52.140,
25 75.52.150, 75.52.160, and 75.52.900 are each recodified as sections in
26 a new chapter in Title 77 RCW.

27 NEW SECTION. **Sec. 136.** RCW 75.54.005, 75.54.010, 75.54.020,
28 75.54.030, 75.54.040, 75.54.050, 75.54.060, 75.54.070, 75.54.080,
29 75.54.090, 75.54.100, 75.54.110, 75.54.120, 75.54.130, 75.54.140,
30 75.54.150, 75.54.900, and 75.54.901 are each recodified as sections in
31 a new chapter in Title 77 RCW.

1 The fish and wildlife commission consists of nine registered voters
2 of the state. In January of each odd-numbered year, the governor shall
3 appoint with the advice and consent of the senate two registered voters
4 to the commission to serve for terms of six years from that January or
5 until their successors are appointed and qualified. If a vacancy
6 occurs on the commission prior to the expiration of a term, the
7 governor shall appoint a registered voter within sixty days to complete
8 the term. Three members shall be residents of that portion of the
9 state lying east of the summit of the Cascade mountains, and three
10 shall be residents of that portion of the state lying west of the
11 summit of the Cascade mountains. Three additional members shall be
12 appointed at-large (~~effective July 1, 1993; one of whom shall serve a~~
13 ~~one and one-half year term to end December 31, 1994; one of whom shall~~
14 ~~serve a three and one-half year term to end December 31, 1996; and one~~
15 ~~of whom shall serve a five and one-half year term to end December 31,~~
16 ~~1998. Thereafter all members are to serve a six-year term)). No two
17 members may be residents of the same county. The legal office of the
18 commission is at the administrative office of the department in
19 Olympia.~~

20 **Sec. 204.** RCW 77.04.055 and 1995 1st sp.s. c 2 s 4 are each
21 amended to read as follows:

22 (1) In establishing policies to preserve, protect, and perpetuate
23 wildlife, fish, and wildlife and fish habitat, the commission shall
24 meet annually with the governor to:

25 (a) Review and prescribe basic goals and objectives related to
26 those policies; and

27 (b) Review the performance of the department in implementing fish
28 and wildlife policies.

29 The commission shall maximize fishing, hunting, and outdoor
30 recreational opportunities compatible with healthy and diverse fish and
31 wildlife populations.

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

35 (3) The commission shall establish provisions regulating food fish
36 and shellfish as provided in RCW 75.08.080 (as recodified by this act).

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

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

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

8 (7) The commission shall select its own staff and shall appoint the
9 director of the department. The director and commission staff shall
10 serve at the pleasure of the commission.

11 **Sec. 205.** RCW 77.04.080 and 1995 1st sp.s. c 2 s 5 are each
12 amended to read as follows:

13 ~~((Persons eligible for appointment as director shall have practical
14 knowledge of the habits and distribution of fish and wildlife.))~~ The
15 director shall supervise the administration and operation of the
16 department and perform the duties prescribed by law and delegated by
17 the commission. The director shall carry out the basic goals and
18 objectives prescribed under RCW 77.04.055. The director may appoint
19 and employ necessary personnel. The director may delegate, in writing,
20 to department personnel the duties and powers necessary for efficient
21 operation and administration of the department.

22 Only persons having general knowledge of the fisheries and wildlife
23 resources and of the commercial and recreational fishing industry in
24 this state are eligible for appointment as director. The director
25 shall not have a financial interest in the fishing industry or a
26 directly related industry. The director shall receive the salary fixed
27 by the governor under RCW 43.03.040.

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

30 ~~((The director may appoint and employ necessary departmental
31 personnel. The director may delegate to department personnel the
32 duties and powers necessary for efficient operation and administration
33 of the department.))~~

34 **Sec. 206.** RCW 77.04.100 and 1993 sp.s. c 2 s 65 are each amended
35 to read as follows:

1 The director shall develop proposals to reinstate the natural
2 salmon and steelhead trout fish runs in the Tilton and upper Cowlitz
3 rivers in accordance with RCW 75.08.020(3) (as recodified by this act).

4 **Sec. 207.** RCW 77.08.010 and 1998 c 190 s 111 are each amended to
5 read as follows:

6 As used in this title (~~(or Title 75 RCW)~~) or rules adopted
7 (~~pursuant to those~~) under this title(~~s~~), unless the context clearly
8 requires otherwise:

9 (1) "Director" means the director of fish and wildlife.

10 (2) "Department" means the department of fish and wildlife.

11 (3) "Commission" means the state fish and wildlife commission.

12 (4) "Person" means and includes an individual(~~(s)~~); a
13 corporation(~~(s)~~); a public or private entity or organization; a local,
14 state, or federal agency; all business organizations, including
15 corporations and partnerships; or a group of two or more individuals
16 acting with a common purpose whether acting in an individual,
17 representative, or official capacity.

18 (5) "Fish and wildlife officer" means a person appointed and
19 commissioned by the director, with authority to enforce (~~laws~~) this
20 title and rules adopted pursuant to this title, and other statutes as
21 prescribed by the legislature. Fish and wildlife officer includes a
22 person commissioned before June 11, 1998, as a wildlife agent or a
23 fisheries patrol officer.

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

33 (7) "To hunt" and its derivatives means an effort to kill, injure,
34 capture, or harass a wild animal or wild bird.

35 (8) "To trap" and its derivatives means a method of hunting using
36 devices to capture wild animals or wild birds.

1 (9) "To fish," "to harvest," and "to take," and ~~((its))~~ their
2 derivatives means an effort to kill, injure, harass, or catch a fish or
3 shellfish.

4 (10) "Open season" means those times, manners of taking, and places
5 or waters established by rule of the commission for the lawful hunting,
6 fishing, taking, or possession of game animals, game birds, ~~((or))~~ game
7 fish, food fish, or shellfish that conform to the special restrictions
8 or physical descriptions established by rule of the commission or that
9 have otherwise been deemed legal to hunt, fish, take, or possess by
10 rule of the commission. "Open season" includes the first and last days
11 of the established time.

12 (11) "Closed season" means all times, manners of taking, and places
13 or waters other than those established by rule of the commission as an
14 open season. "Closed season" also means all hunting, fishing, taking,
15 or possession of game animals, game birds, or game fish that do not
16 conform to the special restrictions or physical descriptions
17 established by rule of the commission as an open season or that have
18 not otherwise been deemed legal to hunt, fish, take, or possess by rule
19 of the commission as an open season.

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

22 (13) "Closed waters" means all or part of a lake, river, stream, or
23 other body of water, where fishing for game fish is prohibited.

24 (14) "Game reserve" means a closed area where hunting for all wild
25 animals and wild birds is prohibited.

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

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

38 (17) "Wild animals" means those species of the class Mammalia whose
39 members exist in Washington in a wild state and the species Rana

1 catesbeiana (bullfrog). The term "wild animal" does not include feral
2 domestic mammals or the family Muridae of the order Rodentia (old world
3 rats and mice).

4 (18) "Wild birds" means those species of the class Aves whose
5 members exist in Washington in a wild state.

6 (19) "Protected wildlife" means wildlife designated by the
7 commission that shall not be hunted or fished.

8 (20) "Endangered species" means wildlife designated by the
9 commission as seriously threatened with extinction.

10 (21) "Game animals" means wild animals that shall not be hunted
11 except as authorized by the commission.

12 (22) "Fur-bearing animals" means game animals that shall not be
13 trapped except as authorized by the commission.

14 (23) "Game birds" means wild birds that shall not be hunted except
15 as authorized by the commission.

16 (24) "Predatory birds" means wild birds that may be hunted
17 throughout the year as authorized by the commission.

18 (25) "Deleterious exotic wildlife" means species of the animal
19 kingdom not native to Washington and designated as dangerous to the
20 environment or wildlife of the state.

21 (26) "Game farm" means property on which wildlife is held or raised
22 for commercial purposes, trade, or gift. The term "game farm" does not
23 include publicly owned facilities.

24 (27) "Person of disability" means a permanently disabled person who
25 is not ambulatory without the assistance of a wheelchair, crutches, or
26 similar devices.

27 (28) "Fish" includes all species classified as game fish or food
28 fish by statute or rule, as well as all fin fish not currently
29 classified as food fish or game fish if such species exist in state
30 waters. The term "fish" includes all stages of development and the
31 bodily parts of fish species.

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

37 (30) "Youth" means a person fifteen years old for fishing and under
38 sixteen years old for hunting.

39 (31) "Senior" means a person seventy years old or older.

1 (32) "License year" means the period of time for which a
2 recreational license is valid. The license year begins April 1st, and
3 ends March 31st.

4 (33) "Saltwater" means those marine waters seaward of river mouths.

5 (34) "Freshwater" means all waters not defined as saltwater
6 including, but not limited to, rivers upstream of the river mouth,
7 lakes, ponds, and reservoirs.

8 (35) "State waters" means all marine waters and fresh waters within
9 ordinary high water lines and within the territorial boundaries of the
10 state.

11 (36) "Offshore waters" means marine waters of the Pacific Ocean
12 outside the territorial boundaries of the state, including the marine
13 waters of other states and countries.

14 (37) "Concurrent waters of the Columbia river" means those waters
15 of the Columbia river that coincide with the Washington-Oregon state
16 boundary.

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

22 (39) "Nonresident" means a person who has not fulfilled the
23 qualifications of a resident.

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

29 (41) "Commercial" means related to or connected with buying,
30 selling, or bartering. Fishing for food fish or shellfish with gear
31 unlawful for fishing for personal use, or possessing food fish or
32 shellfish in excess of the limits permitted for personal use are
33 commercial activities.

34 (42) "To process" and its derivatives mean preparing or preserving
35 food fish or shellfish.

36 (43) "Personal use" means for the private use of the individual
37 taking the food fish or shellfish and not for sale or barter.

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

4 (45) "Fishery" means the taking of one or more particular species
5 of food fish or shellfish with particular gear in a particular
6 geographical area.

7 (46) "Limited-entry license" means a license subject to a license
8 limitation program established in chapter 75.30 RCW (as recodified by
9 this act).

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

15 (48) "Trafficking" means offering, attempting to engage, or
16 engaging in sale, barter, or purchase of fish, shellfish, wildlife, or
17 deleterious exotic wildlife.

18 NEW SECTION. Sec. 208. A new section is added to chapter 77.08
19 RCW to read as follows:

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

25 NEW SECTION. Sec. 209. A new section is added to chapter 77.08
26 RCW to read as follows:

27 "Salmon" means all species of the genus *Oncorhynchus*, except those
28 classified as game fish in RCW 77.08.020, and includes:

	<i>Scientific Name</i>	<i>Common Name</i>
29		
30	<i>Oncorhynchus tshawytscha</i>	<i>Chinook salmon</i>
31	<i>Oncorhynchus kisutch</i>	<i>Coho salmon</i>
32	<i>Oncorhynchus keta</i>	<i>Chum salmon</i>
33	<i>Oncorhynchus gorbuscha</i>	<i>Pink salmon</i>
34	<i>Oncorhynchus nerka</i>	<i>Sockeye salmon</i>

1 **Sec. 210.** RCW 77.12.010 and 1985 c 438 s 1 are each amended to
2 read as follows:

3 (~~Wildlife is the property of the state. The department shall~~
4 ~~preserve, protect, and perpetuate wildlife. Game animals, game birds,~~
5 ~~and game fish may be taken only at times or places, or in manners or~~
6 ~~quantities as in the judgment of the commission maximizes public~~
7 ~~recreational opportunities without impairing the supply of wildlife.))~~

8 The commission shall not adopt rules that categorically prohibit
9 fishing with bait or artificial lures in streams, rivers, beaver ponds,
10 and lakes except that the commission may adopt rules and regulations
11 restricting fishing methods upon a determination by the director that
12 an individual body of water or part thereof clearly requires a fishing
13 method prohibition to conserve or enhance the fisheries resource or to
14 provide selected fishing alternatives. (~~The commission shall attempt~~
15 ~~to maximize the public recreational fishing opportunities of all~~
16 ~~citizens, particularly juvenile, handicapped, and senior citizens.~~

17 ~~Nothing contained herein shall be construed to infringe on the~~
18 ~~right of a private property owner to control the owner's private~~
19 ~~property.))~~

20 **Sec. 211.** RCW 77.12.035 and 1995 c 370 s 1 are each amended to
21 read as follows:

22 The ((~~department~~)) commission shall protect grizzly bears and
23 develop management programs on publicly owned lands that will encourage
24 the natural regeneration of grizzly bears in areas with suitable
25 habitat. Grizzly bears shall not be transplanted or introduced into
26 the state. Only grizzly bears that are native to Washington state may
27 be utilized by the department for management programs. The department
28 is directed to fully participate in all discussions and negotiations
29 with federal and state agencies relating to grizzly bear management and
30 shall fully communicate, support, and implement the policies of this
31 section.

32 **Sec. 212.** RCW 77.12.055 and 1998 c 190 s 112 are each amended to
33 read as follows:

34 (1) Fish and wildlife officers and ex officio fish and wildlife
35 officers shall enforce this title, (~~Title 75 RCW,~~) rules of the
36 department, and other statutes as prescribed by the legislature.
37 However, when acting within the scope of these duties and when an

1 offense occurs in the presence of the fish and wildlife officer who is
2 not an ex officio fish and wildlife officer, the fish and wildlife
3 officer may enforce all criminal laws of the state. The fish and
4 wildlife officer must have successfully completed the basic law
5 enforcement academy course sponsored by the criminal justice training
6 commission, or a course approved by the department and the criminal
7 justice training commission and provided by the department or the
8 criminal justice training commission, prior to enforcing the criminal
9 laws of the state.

10 (2) Fish and wildlife officers are peace officers.

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

17 (4) Fish and wildlife officers may serve and execute warrants and
18 processes issued by the courts.

19 (5) Fish and wildlife officers may enforce RCW 79.01.805 and
20 79.01.810.

21 (6) Fish and wildlife officers are authorized to enforce all
22 provisions of chapter 88.02 RCW and any rules adopted under that
23 chapter, and the provisions of RCW 43.51.400 and any rules adopted
24 under that section.

25 (7) To enforce the laws of this title (~~and Title 75 RCW~~), fish
26 and wildlife officers may call to their aid any ex officio fish and
27 wildlife officer or citizen and that person shall render aid.

28 **Sec. 213.** RCW 77.12.080 and 1998 c 190 s 114 are each amended to
29 read as follows:

30 Fish and wildlife officers and ex officio fish and wildlife
31 officers may arrest without warrant persons found violating the law or
32 rules adopted pursuant to this title (~~and Title 75 RCW~~).

33 **Sec. 214.** RCW 77.12.090 and 1998 c 190 s 115 are each amended to
34 read as follows:

35 Fish and wildlife officers and ex officio fish and wildlife
36 officers may make a reasonable search without warrant of a vessel,
37 (~~container, or~~) conveyances, vehicles, containers, packages, (~~game~~

1 baskets, ~~game coats,~~) or other receptacles for fish and wildlife(~~(, or~~
2 ~~tents, camps, or similar places)~~) which they have reason to believe
3 contain evidence of a violation of law or rules adopted pursuant to
4 this title (~~(or Title 75 RCW)~~) and seize evidence as needed for law
5 enforcement. This authority does not extend to quarters in a boat,
6 building, or other property used exclusively as a private domicile,
7 does not extend to transitory residences in which a person has a
8 reasonable expectation of privacy, and does not allow search and
9 seizure without a warrant if the thing or place is protected from
10 search without warrant within the meaning of Article I, section 7, of
11 the state Constitution. Seizure of property as evidence of a crime
12 does not preclude seizure of the property ((if authorized)) for
13 forfeiture as authorized by law.

14 **Sec. 215.** RCW 77.12.103 and 1993 sp.s. c 2 s 68 are each amended
15 to read as follows:

16 (1) ~~((The burden of proof of any exemption or exception to seizure~~
17 ~~or forfeiture of personal property involved with wildlife offenses is~~
18 ~~upon the person claiming it.~~

19 ~~(2))~~ An authorized state, county, or municipal officer may be
20 subject to civil liability under RCW ~~((77.12.101))~~ 77.15.070 for
21 willful misconduct or gross negligence in the performance of his or her
22 duties.

23 ~~((3))~~ (2) The director, the fish and wildlife commission, or the
24 department may be subject to civil liability for their willful or
25 reckless misconduct in matters involving the seizure and forfeiture of
26 personal property involved with fish or wildlife offenses.

27 **Sec. 216.** RCW 77.12.200 and 1987 c 506 s 28 are each amended to
28 read as follows:

29 The commission may authorize the director to acquire by gift,
30 purchase, lease, or condemnation lands, buildings, waters, water
31 rights, rights of way, or other necessary property for purposes
32 consistent with this title, together with rights of way for access to
33 the property so acquired. Except to clear title and acquire access
34 rights of way, the power of condemnation may be exercised by the
35 director only when an appropriation has been made by the legislature
36 for the acquisition of a specific property.

1 **Sec. 217.** RCW 77.12.204 and 1993 sp.s. c 4 s 6 are each amended to
2 read as follows:

3 The department of fish and wildlife shall implement practices
4 necessary to meet the standards developed under RCW 79.01.295 on
5 agency-owned and managed agricultural and grazing lands. The standards
6 may be modified on a site-specific basis as necessary and as determined
7 by the department of (~~fisheries or~~) fish and wildlife, for species
8 that these agencies respectively manage, to achieve the goals
9 established under RCW 79.01.295(1). Existing lessees shall be provided
10 an opportunity to participate in any site-specific field review.
11 Department agricultural and grazing leases issued after December 31,
12 1994, shall be subject to practices to achieve the standards that meet
13 those developed pursuant to RCW 79.01.295.

14 This section shall in no way prevent the department of fish and
15 wildlife from managing its lands to accomplish its statutory mandate
16 pursuant to RCW 77.12.010, nor shall it prevent the department from
17 managing its lands according to the provisions of RCW 77.12.210 or
18 rules adopted pursuant to this chapter.

19 **Sec. 218.** RCW 77.12.210 and 1987 c 506 s 30 are each amended to
20 read as follows:

21 The director shall maintain and manage real or personal property
22 owned, leased, or held by the department and shall control the
23 construction of buildings, structures, and improvements in or on the
24 property. The director may adopt rules for the operation and
25 maintenance of the property.

26 The commission may authorize the director to sell, lease, convey,
27 or grant concessions upon real or personal property under the control
28 of the department. This includes the authority to sell timber, gravel,
29 sand, and other materials or products from real property held by the
30 department (~~and may authorize the director~~), and to sell or lease the
31 department's real or personal property or grant concessions or rights
32 of way for roads or utilities in the property. Oil and gas resources
33 owned by the state which lie below lands owned, leased, or held by the
34 department shall be offered for lease by the commissioner of public
35 lands pursuant to chapter 79.14 RCW with the proceeds being deposited
36 in the state wildlife fund: PROVIDED, That the commissioner of public
37 lands shall condition such leases at the request of the department to
38 protect wildlife and its habitat.

1 If the commission determines that real or personal property held by
2 the department cannot be used advantageously by the department, the
3 director may dispose of that property if it is in the public interest.

4 If the state acquired real property with use limited to specific
5 purposes, the director may negotiate terms for the return of the
6 property to the donor or grantor. Other real property shall be sold to
7 the highest bidder at public auction. After appraisal, notice of the
8 auction shall be published at least once a week for two successive
9 weeks in a newspaper of general circulation within the county where the
10 property is located at least twenty days prior to sale.

11 Proceeds from the sales shall be deposited in the state wildlife
12 fund.

13 **Sec. 219.** RCW 77.12.220 and 1987 c 506 s 31 are each amended to
14 read as follows:

15 For purposes of this title, the commission may make agreements to
16 obtain real or personal property or to transfer or convey property held
17 by the state to the United States or its agencies or instrumentalities,
18 (~~political subdivisions~~) units of local government of this state,
19 public service companies, or other persons, if in the judgment of the
20 commission and the attorney general the transfer and conveyance is
21 consistent with public interest. For purposes of this section, "local
22 government" means any city, town, county, special district, municipal
23 corporation, or quasi-municipal corporation.

24 If the commission agrees to a transfer or conveyance under this
25 section or to a sale or return of real property under RCW 77.12.210,
26 the director shall certify, with the attorney general, to the governor
27 that the agreement has been made. The certification shall describe the
28 real property. The governor then may execute and the secretary of
29 state attest and deliver to the appropriate entity or person the
30 instrument necessary to fulfill the agreement.

31 **Sec. 220.** RCW 77.12.250 and 1980 c 78 s 42 are each amended to
32 read as follows:

33 The director, (~~wildlife agents~~) fish and wildlife officers, ex
34 officio (~~wildlife agents~~) fish and wildlife officers, and department
35 employees may enter upon lands or waters and remain there while
36 performing their duties without liability for trespass. It is lawful

1 for aircraft operated by the department to land and take off from
2 beaches or waters of the state.

3 **Sec. 221.** RCW 77.12.315 and 1987 c 506 s 40 are each amended to
4 read as follows:

5 If the director determines that a severe problem exists in an area
6 of the state because deer and elk are being pursued, harassed, attacked
7 or killed by dogs, the director may declare by emergency rule that an
8 emergency exists and specify the area where it is lawful for fish and
9 wildlife ((agents)) officers to take into custody or destroy the dogs
10 if necessary. Fish and wildlife ((agents)) officers who take into
11 custody or destroy a dog pursuant to this section are immune from civil
12 or criminal liability arising from their actions.

13 **Sec. 222.** RCW 77.12.470 and 1980 c 78 s 63 are each amended to
14 read as follows:

15 To enforce RCW 77.12.480 and 77.12.490 (as recodified by this act),
16 courts in the counties contiguous to the boundary waters, fish and
17 wildlife ((agents)) officers, and ex officio fish and wildlife
18 ((agents)) officers have jurisdiction over the boundary waters to the
19 furthest shoreline. This jurisdiction is concurrent with the courts
20 and law enforcement officers of Idaho.

21 **Sec. 223.** RCW 77.12.480 and 1980 c 78 s 64 are each amended to
22 read as follows:

23 The taking of wildlife from the boundary waters or islands of the
24 Snake river shall be in accordance with the wildlife laws of the
25 respective states. Fish and wildlife ((agents)) officers and ex
26 officio fish and wildlife ((agents)) officers shall honor the license
27 of either state and the right of the holder to take wildlife from the
28 boundary waters and islands in accordance with the laws of the state
29 issuing the license.

30 **Sec. 224.** RCW 77.12.490 and 1980 c 78 s 65 are each amended to
31 read as follows:

32 The purpose of RCW 77.12.450 through 77.12.490 (as recodified by
33 this act) is to avoid the conflict, confusion, and difficulty of
34 locating the state boundary in or on the boundary waters and islands of
35 the Snake river. These sections do not allow the holder of a

1 Washington license to fish or hunt on the shoreline, sloughs, or
2 tributaries on the Idaho side, nor allow the holder of an Idaho license
3 to fish or hunt on the shoreline, sloughs, or tributaries on the
4 Washington side.

5 **Sec. 225.** RCW 77.12.610 and 1982 c 155 s 1 are each amended to
6 read as follows:

7 The purposes of RCW 77.12.610 through 77.12.630 (~~and 77.16.610~~)
8 are to facilitate the department's gathering of biological data for
9 managing wildlife, fish, and shellfish resources of this state and to
10 protect (~~wildlife~~) these resources by assuring compliance with Title
11 77 RCW, and rules adopted thereunder, in a manner designed to minimize
12 inconvenience to the public.

13 **Sec. 226.** RCW 77.12.620 and 1982 c 155 s 2 are each amended to
14 read as follows:

15 The department is authorized to require hunters and fishermen
16 occupying a motor vehicle approaching or entering a check station to
17 stop and produce for inspection: (1) Any wildlife, fish, shellfish, or
18 seaweed in their possession; (2) licenses, permits, tags, stamps, or
19 (~~punchcards~~) catch record cards, required under Title 77 RCW, or
20 rules adopted thereunder. For these purposes, the department is
21 authorized to operate check stations which shall be plainly marked by
22 signs, operated by at least one uniformed fish and wildlife (~~agent~~)
23 officer, and operated in a safe manner.

24 **Sec. 227.** RCW 77.12.630 and 1982 c 155 s 4 are each amended to
25 read as follows:

26 The powers conferred by RCW 77.12.610 through 77.12.630 (~~and~~
27 ~~77.16.610~~) are in addition to all other powers conferred by law upon
28 the department. Nothing in RCW 77.12.610 through 77.12.630 (~~and~~
29 ~~77.16.610~~) shall be construed to prohibit the department from
30 operating wildlife information stations at which persons shall not be
31 required to stop and report, or from executing arrests, searches, or
32 seizures otherwise authorized by law.

33 **Sec. 228.** RCW 77.12.655 and 1990 c 84 s 3 are each amended to read
34 as follows:

1 The department, in accordance with chapter 34.05 RCW, shall adopt
2 and enforce necessary rules defining the extent and boundaries of
3 habitat buffer zones for bald eagles. Rules shall take into account
4 the need for variation of the extent of the zone from case to case, and
5 the need for protection of bald eagles. The rules shall also establish
6 guidelines and priorities for purchase or trade and establishment of
7 conservation easements and/or leases to protect such designated
8 properties. The department shall also adopt rules to provide adequate
9 notice to property owners of their options under RCW 77.12.650
10 (~~through 77.12.655~~)).

11 **Sec. 229.** RCW 77.12.830 and 1997 c 425 s 3 are each amended to
12 read as follows:

13 (1) Beginning in January 1998, the department of fish and wildlife
14 and the department of natural resources shall implement a habitat
15 incentives program based on the recommendations of federally recognized
16 Indian tribes, landowners, the regional fisheries enhancement groups,
17 the timber, fish, and wildlife cooperators, and other interested
18 parties. The program shall allow a private landowner to enter into an
19 agreement with the departments to enhance habitat on the landowner's
20 property for food fish, game fish, or other wildlife species. In
21 exchange, the landowner shall receive state regulatory certainty with
22 regard to future applications for hydraulic project approval or a
23 forest practices permit on the property covered by the agreement. The
24 overall goal of the program is to provide a mechanism that facilitates
25 habitat development on private property while avoiding an adverse state
26 regulatory impact to the landowner at some future date. A single
27 agreement between the departments and a landowner may encompass up to
28 one thousand acres. A landowner may enter into multiple agreements
29 with the departments, provided that the total acreage covered by such
30 agreements with a single landowner does not exceed ten thousand acres.
31 The departments are not obligated to enter into an agreement unless the
32 departments find that the agreement is in the best interest of
33 protecting fish or wildlife species or their habitat.

34 (2) A habitat incentives agreement shall be in writing and shall
35 contain at least the following: A description of the property covered
36 by the agreement, an expiration date, a description of the condition of
37 the property prior to the implementation of the agreement, and other

1 information needed by the landowner and the departments for future
2 reference and decisions.

3 (3) As part of the agreement, the department of fish and wildlife
4 may stipulate the factors that will be considered when the department
5 evaluates a landowner's application for hydraulic project approval
6 under RCW 75.20.100 or 75.20.103 (as recodified by this act) on
7 property covered by the agreement. The department's identification of
8 these evaluation factors shall be in concurrence with the department of
9 natural resources and affected federally recognized Indian tribes. In
10 general, future decisions related to the issuance, conditioning, or
11 denial of hydraulic project approval shall be based on the conditions
12 present on the landowner's property at the time of the agreement,
13 unless all parties agree otherwise.

14 (4) As part of the agreement, the department of natural resources
15 may stipulate the factors that will be considered when the department
16 evaluates a landowner's application for a forest practices permit under
17 chapter 76.09 RCW on property covered by the agreement. The
18 department's identification of these evaluation factors shall be in
19 concurrence with the department of fish and wildlife and affected
20 federally recognized Indian tribes. In general, future decisions
21 related to the issuance, conditioning, or denial of forest practices
22 permits shall be based on the conditions present on the landowner's
23 property at the time of the agreement, unless all parties agree
24 otherwise.

25 (5) The agreement is binding on and may be used by only the
26 landowner who entered into the agreement with the department. The
27 agreement shall not be appurtenant with the land. However, if a new
28 landowner chooses to maintain the habitat enhancement efforts on the
29 property, the new landowner and the departments may jointly choose to
30 retain the agreement on the property.

31 (6) If the departments receive multiple requests for agreements
32 with private landowners under the habitat incentives program, the
33 departments shall prioritize these requests and shall enter into as
34 many agreements as possible within available budgetary resources.

35 **Sec. 230.** RCW 77.15.070 and 1998 c 190 s 69 are each amended to
36 read as follows:

37 (1) Fish and wildlife officers and ex officio fish and wildlife
38 officers may seize without warrant boats, airplanes, vehicles,

1 motorized implements, conveyances, gear, appliances, or other articles
2 they have probable cause to believe have been held with intent to
3 violate or used in violation of this ((chapter)) title or rule of the
4 commission or director. However, fish and wildlife officers or ex
5 officio fish and wildlife officers may not seize any item or article,
6 other than for evidence, if under the circumstances, it is reasonable
7 to conclude that the violation was inadvertent. The property seized is
8 subject to forfeiture to the state under this section regardless of
9 ownership. Property seized may be recovered by its owner by depositing
10 into court a cash bond equal to the value of the seized property but
11 not more than twenty-five thousand dollars. Such cash bond is subject
12 to forfeiture in lieu of the property. Forfeiture of property seized
13 under this section is a civil forfeiture ((against property)) and is
14 intended to be a remedial civil sanction.

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

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

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

1 (5) The hearing to contest forfeiture and any subsequent appeal
2 shall be as provided for in (~~Title 34 RCW~~) chapter 34.05 RCW, the
3 administrative procedure act. The seizing authority has the burden to
4 demonstrate that it had reason to believe the property was held with
5 intent to violate or was used in violation of this title or rule of the
6 commission or director. The person contesting forfeiture has the
7 burden of production and proof by a preponderance of evidence that the
8 person owns or has a right to possess the property and:

9 (a) That the property was not held with intent to violate or used
10 in violation of this title (~~or Title 75 RCW~~); or

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

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

21 (7) If seized property is forfeited under this section the
22 department may retain it for official use unless the property is
23 required to be destroyed, or upon application by any law enforcement
24 agency of the state, release such property to the agency for the use of
25 enforcing this title, or sell such property, and deposit the proceeds
26 to the wildlife fund, as provided for in RCW 77.12.170.

27 NEW SECTION. Sec. 231. A new section is added to chapter 77.15
28 RCW to read as follows:

29 Fish and wildlife officers and ex officio fish and wildlife
30 officers may seize without a warrant wildlife, fish, and shellfish they
31 have probable cause to believe have been taken, transported, or
32 possessed in violation of this title or rule of the commission or
33 director.

34 **Sec. 232.** RCW 77.15.080 and 1998 c 190 s 113 are each amended to
35 read as follows:

36 Based upon articulable facts that a person is actively engaged in
37 fishing or hunting activities, fish and wildlife officers have the

1 authority to temporarily stop the person and check for valid licenses,
2 tags, permits, stamps, or catch record cards, and to inspect all fish
3 and wildlife in possession as well as the equipment being used to
4 ensure compliance with the requirements of this title (~~and Title 75~~
5 ~~RCW~~). For purposes of this section, "actively engaged in fishing or
6 hunting activities" means to make an effort to hunt or fish, and
7 includes a reasonable time period after a person has returned to camp
8 or dock-side in order to check any creel or container for numbers and
9 types of fish, shellfish, or wildlife.

10 **Sec. 233.** RCW 77.15.090 and 1998 c 190 s 117 are each amended to
11 read as follows:

12 On a showing of probable cause that there has been a violation of
13 any fish or wildlife law of the state of Washington, or upon a showing
14 of probable cause to believe that evidence of such violation may be
15 found at a place, a court shall issue a search warrant or arrest
16 warrant. Fish and wildlife officers may execute any such arrest or
17 search warrant reasonably necessary to their duties under this title
18 (~~or Title 75 RCW~~) and may seize fish and wildlife or any evidence of
19 a crime and the fruits or instrumentalities of a crime as provided by
20 warrant. The court may have a building, enclosure, vehicle, vessel,
21 container, or receptacle opened or entered and the contents examined.

22 **Sec. 234.** RCW 77.15.100 and 1998 c 190 s 63 are each amended to
23 read as follows:

24 (1) Unless otherwise provided in this title (~~or Title 75 RCW~~),
25 fish, shellfish, or wildlife unlawfully taken or possessed, or involved
26 in a violation shall be forfeited to the state upon conviction. Unless
27 already held by, sold, destroyed, or disposed of by the department, the
28 court shall order such fish or wildlife to be delivered to the
29 department. Where delay will cause loss to the value of the property
30 and a ready wholesale buying market exists, the department may sell
31 property to a wholesale buyer at a fair market value.

32 (2) (~~The department may use, sell, or destroy any other~~) When
33 seized property is forfeited ((by the court or)) to the department, the
34 department may retain it for official use unless the property is
35 required to be destroyed, or upon application by any law enforcement
36 agency of the state, release the property to the agency for the use of
37 enforcing this title, or sell such property and deposit the proceeds

1 into the state wildlife fund established under RCW 77.12.170. Any sale
2 of other property shall be at public auction or after public
3 advertisement reasonably designed to obtain the highest price. The
4 time, place, and manner of holding the sale shall be determined by the
5 director. The director may contract for the sale to be through the
6 department of general administration as state surplus property, or,
7 except where not justifiable by the value of the property, the director
8 shall publish notice of the sale once a week for at least two
9 consecutive weeks before the sale in at least one newspaper of general
10 circulation in the county in which the sale is to be held. (~~Proceeds~~
11 ~~of the sale shall be deposited in the state treasury to be credited to~~
12 ~~the state wildlife fund.~~)

13 **Sec. 235.** RCW 77.15.120 and 1998 c 190 s 13 are each amended to
14 read as follows:

15 (1) A person is guilty of unlawful taking of endangered fish or
16 wildlife in the second degree if the person hunts, fishes, possesses,
17 maliciously harasses or kills fish or wildlife, or maliciously destroys
18 the nests or eggs of fish or wildlife and the fish or wildlife is
19 designated by the commission as endangered, and the taking has not been
20 authorized by rule of the commission.

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

23 (a) Convicted under subsection (1) of this section or convicted of
24 any crime under this title involving the killing, possessing,
25 harassing, or harming of endangered fish or wildlife; and

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

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

30 (b) Unlawful taking of endangered fish or wildlife in the first
31 degree is a class C felony. The department shall revoke any licenses
32 or tags used in connection with the crime and order the person's
33 privileges to hunt, fish, trap, or obtain licenses under this title
34 (~~and Title 75 RCW~~) to be suspended for two years.

35 **Sec. 236.** RCW 77.15.160 and 1998 c 190 s 17 are each amended to
36 read as follows:

1 A person is guilty of an infraction, which shall be cited and
2 punished as provided under chapter 7.84 RCW, if the person:

3 (1) Fails to immediately record a catch of fish or shellfish on a
4 catch record card required by RCW (~~(75.25.190 or 77.32.050)~~) 77.32.430,
5 or required by rule of the commission under this title (~~(or Title 75~~
6 ~~RCW)~~); or

7 (2) Fishes for personal use using barbed hooks in violation of any
8 rule; or

9 (3) Violates any other rule of the commission or director that is
10 designated by rule as an infraction.

11 NEW SECTION. **Sec. 237.** A new section is added to chapter 77.15
12 RCW to read as follows:

13 Any person who is damaged by any act prohibited in RCW 77.15.210
14 may bring a civil action to enjoin further violations, and recover
15 damages sustained, including a reasonable attorneys' fee. The trial
16 court may increase the award of damages to an amount not to exceed
17 three times the damages sustained. A party seeking civil damages under
18 this section may recover upon proof of a violation by a preponderance
19 of the evidence. The state of Washington may bring a civil action to
20 enjoin violations of this section.

21 **Sec. 238.** RCW 77.15.300 and 1998 c 190 s 52 are each amended to
22 read as follows:

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

26 (a) Fails to have a hydraulic project approval required under
27 chapter 75.20 RCW (as recodified by this act) for such construction or
28 work; or

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

31 (2) Unlawfully undertaking hydraulic project activities is a gross
32 misdemeanor.

33 **Sec. 239.** RCW 77.15.310 and 1998 c 190 s 53 are each amended to
34 read as follows:

35 (1) A person is guilty of unlawful failure to use or maintain an
36 approved fish guard on a diversion device if the person owns, controls,

1 or operates a device used for diverting or conducting water from a
2 lake, river, or stream and:

3 (a) The device is not equipped with a fish guard, screen, or bypass
4 approved by the director as required by RCW 75.20.040 (~~or 77.16.220~~)
5 (as recodified by this act); or

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

9 (2) Unlawful failure to use or maintain an approved fish guard,
10 screen, or bypass on a diversion device is a gross misdemeanor.
11 Following written notification to the person from the department that
12 there is a violation, each day that a diversion device is operated
13 without an approved or maintained fish guard, screen, or bypass is a
14 separate offense.

15 **Sec. 240.** RCW 77.15.320 and 1998 c 190 s 54 are each amended to
16 read as follows:

17 (1) A person is guilty of unlawful failure to provide, maintain, or
18 operate a fishway for dam or other obstruction if the person owns,
19 operates, or controls a dam or other obstruction to fish passage on a
20 river or stream and:

21 (a) The dam or obstruction is not provided with a durable and
22 efficient fishway approved by the director as required by RCW 75.20.060
23 (as recodified by this act);

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

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

28 (2) Unlawful failure to provide, maintain, or operate a fishway for
29 dam or other obstruction is a gross misdemeanor. Following written
30 notification to the person from the department that there is a
31 violation, each day of unlawful failure to provide, maintain, or
32 operate a fishway is a separate offense.

33 **Sec. 241.** RCW 77.15.350 and 1998 c 190 s 58 are each amended to
34 read as follows:

35 (1) A person is guilty of violating a rule regarding inspection and
36 disease control of aquatic farms if the person:

1 (a) Violates any rule adopted under chapter 75.58 RCW (as
2 recodified by this act) regarding the inspection and disease control
3 program for an aquatic farm; or

4 (b) Fails to register or report production from an aquatic farm as
5 required by chapter 75.58 RCW (as recodified by this act).

6 (2) A violation of a rule regarding inspection and disease control
7 of aquatic farms is a misdemeanor.

8 **Sec. 242.** RCW 77.15.360 and 1998 c 190 s 61 are each amended to
9 read as follows:

10 (1) A person is guilty of unlawful interfering in department
11 operations if the person prevents department employees from carrying
12 out duties authorized by this title (~~(or Title 75 RCW)~~), including but
13 not limited to interfering in the operation of department vehicles,
14 vessels, or aircraft.

15 (2) Unlawful interfering in department operations is a gross
16 misdemeanor.

17 **Sec. 243.** RCW 77.15.380 and 1998 c 190 s 18 are each amended to
18 read as follows:

19 (1) A person is guilty of unlawful recreational fishing in the
20 second degree if the person fishes for, takes, possesses, or harvests
21 fish or shellfish and:

22 (a) The person does not have and possess the license or the catch
23 record card required by chapter 75.25 (as recodified by this act) or
24 77.32 RCW for such activity; or

25 (b) The action violates any rule of the commission or the director
26 regarding seasons, bag or possession limits but less than two times the
27 bag or possession limit, closed areas, closed times, or any other rule
28 addressing the manner or method of fishing or possession of fish,
29 except for use of a net to take fish as provided for in RCW 77.15.580.

30 (2) Unlawful recreational fishing in the second degree is a
31 misdemeanor.

32 **Sec. 244.** RCW 77.15.390 and 1998 c 190 s 20 are each amended to
33 read as follows:

34 (1) A person is guilty of unlawful taking of seaweed if the person
35 takes, possesses, or harvests seaweed and:

1 (a) The person does not have and possess the license required by
2 chapter 75.25 RCW (as recodified by this act) for taking seaweed; or

3 (b) The action violates any rule of the department or the
4 department of natural resources regarding seasons, possession limits,
5 closed areas, closed times, or any other rule addressing the manner or
6 method of taking, possessing, or harvesting of seaweed.

7 (2) Unlawful taking of seaweed is a misdemeanor. This does not
8 affect rights of the state to recover civilly for trespass, conversion,
9 or theft of state-owned valuable materials.

10 **Sec. 245.** RCW 77.15.470 and 1998 c 190 s 29 are each amended to
11 read as follows:

12 (1) A person is guilty of unlawfully avoiding wildlife check
13 stations or field inspections if the person fails to:

14 (a) Obey check station signs;

15 (b) Stop and report at a check station if directed to do so by a
16 uniformed fish and wildlife officer; or

17 (c) Produce for inspection upon request by a fish and wildlife
18 officer: (i) Hunting or fishing equipment; (ii) seaweed, fish,
19 shellfish, or wildlife; or (iii) licenses, permits, tags, stamps, or
20 catch record cards required by this title ~~((or Title 75 RCW))~~.

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

23 (3) Wildlife check stations may not be established upon interstate
24 highways or state routes.

25 **Sec. 246.** RCW 77.15.480 and 1980 c 78 s 27 are each amended to
26 read as follows:

27 Articles or devices unlawfully used, possessed, or maintained for
28 catching, taking, killing, attracting, or decoying wildlife are public
29 nuisances. If necessary, fish and wildlife ~~((agents))~~ officers and ex
30 officio fish and wildlife ~~((agents))~~ officers may seize, abate, or
31 destroy these public nuisances without warrant or process.

32 **Sec. 247.** RCW 77.15.500 and 1998 c 190 s 35 are each amended to
33 read as follows:

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

1 (a) The person does not hold a fishery license or delivery license
2 under chapter 75.28 RCW (as recodified by this act) for the food fish
3 or shellfish; or

4 (b) The person is not a licensed operator designated as an
5 alternate operator on a fishery or delivery license under chapter 75.28
6 RCW (as recodified by this act) for the food fish or shellfish.

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

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

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

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

17 (b) Commercial fishing without a license in the first degree is a
18 class C felony.

19 **Sec. 248.** RCW 77.15.530 and 1998 c 190 s 38 are each amended to
20 read as follows:

21 (1) A person who holds a fishery license required by chapter 75.28
22 RCW (as recodified by this act), or who holds an operator's license and
23 is designated as an alternate operator on a fishery license required by
24 chapter 75.28 RCW (as recodified by this act), is guilty of unlawful
25 use of a nondesignated vessel if the person takes, fishes for, or
26 delivers from that fishery using a vessel not designated on the
27 person's license, when vessel designation is required by chapter 75.28
28 RCW (as recodified by this act).

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

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

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

1 commercial fishing privileges under chapter 75.28 RCW (as recodified by
2 this act) for a period of one year.

3 **Sec. 249.** RCW 77.15.540 and 1998 c 190 s 39 are each amended to
4 read as follows:

5 (1) A person who holds a fishery license required by chapter 75.28
6 RCW (as recodified by this act), or who holds an operator's license and
7 is designated as an alternate operator on a fishery license required by
8 chapter 75.28 RCW (as recodified by this act), is guilty of unlawful
9 use of a commercial fishery license if the person:

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

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

15 (2) Unlawful use of a commercial fishery license is a misdemeanor.

16 **Sec. 250.** RCW 77.15.570 and 1998 c 190 s 49 are each amended to
17 read as follows:

18 (1) Except as provided in subsection (3) of this section, it is
19 unlawful for a person who is not a treaty Indian fisherman to
20 participate in the taking of fish or shellfish in a treaty Indian
21 fishery, or to be on board a vessel, or associated equipment, operating
22 in a treaty Indian fishery. A violation of this subsection is a gross
23 misdemeanor.

24 (2) A person who violates subsection (1) of this section with the
25 intent of acting for commercial purposes, including any sale of catch,
26 control of catch, profit from catch, or payment for fishing assistance,
27 is guilty of a class C felony. Upon conviction, the department shall
28 order revocation of any license and a one-year suspension of all
29 commercial fishing privileges requiring a license under chapter 75.28
30 or 75.30 RCW (as recodified by this act).

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

35 (b) Other treaty Indian fishermen with off-reservation treaty
36 fishing rights in the same usual and accustomed places, whether or not
37 the fishermen are members of the same tribe or another treaty tribe,

1 may assist a treaty Indian fisherman in exercising treaty Indian
2 fishing rights when the treaty Indian fisherman is present at the
3 fishing site.

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

6 (4) For the purposes of this section:

7 (a) "Treaty Indian fisherman" means a person who may exercise
8 treaty Indian fishing rights as determined under *United States v.*
9 *Washington*, 384 F. Supp. 312 (W.D. Wash. 1974), or *Sohappy v. Smith*,
10 302 F. Supp. 899 (D. Oregon 1969), and post-trial orders of those
11 courts;

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

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

19 (5) A violation of this section constitutes illegal fishing and is
20 subject to the suspensions provided for commercial fishing violations.

21 **Sec. 251.** RCW 77.15.580 and 1998 c 190 s 50 are each amended to
22 read as follows:

23 (1) A person is guilty of unlawful use of a net to take fish in the
24 second degree if the person:

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

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

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

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

36 (b) The violation occurs within five years of entry of a prior
37 conviction for a gross misdemeanor or felony under this title ((or

1 ~~Title 75 RCW~~) involving fish, other than a recreational fishing
2 violation, or involving unlawful use of nets.

3 (3)(a) Unlawful use of a net to take fish in the second degree is
4 a gross misdemeanor. Upon conviction, the department shall revoke any
5 license held under this title (~~or Title 75 RCW~~) allowing commercial
6 net fishing used in connection with the crime.

7 (b) Unlawful use of a net to take fish in the first degree is a
8 class C felony. Upon conviction, the department shall order a one-year
9 suspension of all commercial fishing privileges requiring a license
10 under this title (~~or Title 75 RCW~~).

11 (4) Notwithstanding subsections (1) and (2) of this section, it is
12 lawful to use a landing net to land fish otherwise legally hooked.

13 **Sec. 252.** RCW 77.15.620 and 1998 c 190 s 43 are each amended to
14 read as follows:

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

17 (a) Engages in the commercial processing of fish or shellfish,
18 including custom canning or processing of personal use fish or
19 shellfish and does not hold a wholesale dealer's license required by
20 RCW 75.28.300(1) or 77.32.211 (as recodified by this act) for
21 anadromous game fish;

22 (b) Engages in the wholesale selling, buying, or brokering of food
23 fish or shellfish and does not hold a wholesale dealer's or buying
24 license required by RCW 75.28.300(2) or 77.32.211 (as recodified by
25 this act) for anadromous game fish;

26 (c) Is a fisher who lands and sells his or her catch or harvest in
27 the state to anyone other than a licensed wholesale dealer within or
28 outside the state and does not hold a wholesale dealer's license
29 required by RCW 75.28.300(3) or 77.32.211 (as recodified by this act)
30 for anadromous game fish; or

31 (d) Engages in the commercial manufacture or preparation of
32 fertilizer, oil, meal, caviar, fish bait, or other byproducts from food
33 fish or shellfish and does not hold a wholesale dealer's license
34 required by RCW 75.28.300(4) or 77.32.211 (as recodified by this act)
35 for anadromous game fish.

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

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

7 **Sec. 253.** RCW 77.15.630 and 1998 c 190 s 44 are each amended to
8 read as follows:

9 (1) A person who holds a fish dealer's license required by RCW
10 75.28.300 (as recodified by this act), an anadromous game fish buyer's
11 license required by RCW 77.32.211 (as recodified by this act), or a
12 fish buyer's license required by RCW 75.28.340 (as recodified by this
13 act) is guilty of unlawful use of fish buying and dealing licenses in
14 the second degree if the person:

15 (a) Possesses or receives fish or shellfish for commercial purposes
16 worth less than two hundred fifty dollars; and

17 (b) Fails to document such fish or shellfish with a fish-receiving
18 ticket required by statute or rule of the department.

19 (2) A person is guilty of unlawful use of fish buying and dealing
20 licenses in the first degree if the person commits the act described by
21 subsection (1) of this section and:

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

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

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

29 (3)(a) Unlawful use of fish buying and dealing licenses in the
30 second degree is a gross misdemeanor.

31 (b) Unlawful use of fish buying and dealing licenses in the first
32 degree is a class C felony. Upon conviction, the department shall
33 suspend all privileges to engage in fish buying or dealing for two
34 years.

35 **Sec. 254.** RCW 77.15.640 and 1998 c 190 s 45 are each amended to
36 read as follows:

1 (1) A person who holds a wholesale fish dealer's license required
2 by RCW 75.28.300 (as recodified by this act), an anadromous game fish
3 buyer's license required by RCW 77.32.211 (as recodified by this act),
4 or a fish buyer's license required by RCW 75.28.340 (as recodified by
5 this act) is guilty of violating rules governing wholesale fish buying
6 and dealing if the person:

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

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

11 (c) Files a signed fish-receiving ticket but fails to provide all
12 information required by rule of the department; or

13 (d) Violates any other rule of the department regarding wholesale
14 fish buying and dealing.

15 (2) Violating rules governing wholesale fish buying and dealing is
16 a gross misdemeanor.

17 **Sec. 255.** RCW 77.15.650 and 1998 c 190 s 59 are each amended to
18 read as follows:

19 (1) A person is guilty of unlawful purchase or use of a license in
20 the second degree if the person buys, holds, uses, displays, transfers,
21 or obtains any license, tag, permit, or approval required by this title
22 (~~or Title 75 RCW~~) and the person:

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

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

28 (c) Uses or displays a license, permit, tag, or approval that was
29 issued to another person;

30 (d) Permits or allows a license, permit, tag, or approval to be
31 used or displayed by another person not named on the license, permit,
32 tag, or approval;

33 (e) Acquires or holds a license while privileges for the license
34 are revoked or suspended.

35 (2) A person is guilty of unlawful purchase or use of a license in
36 the first degree if the person commits the act described by subsection
37 (1) of this section and the person was acting with intent that the
38 license, permit, tag, or approval be used for any commercial purpose.

1 A person is presumed to be acting with such intent if the violation
2 involved obtaining, holding, displaying, or using a license or permit
3 for participation in any commercial fishery issued under this title
4 (~~or Title 75 RCW~~) or a license authorizing fish or wildlife buying,
5 trafficking, or wholesaling.

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

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

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

22 (5) Any license obtained in violation of this section is void upon
23 issuance and is of no legal effect.

24 **Sec. 256.** RCW 77.15.710 and 1998 c 190 s 67 are each amended to
25 read as follows:

26 (1) The commission shall revoke all hunting, fishing, or other
27 licenses issued under this title and order a ten-year suspension of all
28 privileges extended under the authority of the department of a person
29 convicted of assault on a fish and wildlife officer (~~or other law~~
30 ~~enforcement officer provided that:~~

31 ~~(a) The fish and wildlife officer or other law enforcement officer~~
32 ~~was on duty at the time of the assault; and~~

33 ~~(b) The fish and wildlife officer or other law enforcement officer~~
34 ~~was enforcing the provisions of this title)), ex officio officer,~~
35 employee, agent, or personnel acting for the department, if the
36 employee assaulted was on duty at the time of the assault and carrying
37 out the provisions of this title. The suspension shall be continued

1 beyond this period if any damages to the victim have not been paid by
2 the suspended person.

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

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

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

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

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

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

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

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

12 **Sec. 257.** RCW 77.15.720 and 1998 c 190 s 68 are each amended to
13 read as follows:

14 (1) If a person shoots another person or domestic livestock while
15 hunting, the director shall revoke all hunting licenses and suspend all
16 hunting privileges for three years. If the shooting of another person
17 or livestock is the result of criminal negligence or reckless or
18 intentional conduct, then the person's privileges shall be suspended
19 for ten years. The suspension ~~((may))~~ shall be continued beyond these
20 periods if damages owed to the victim or livestock owner have not been
21 paid by the suspended person. A hunting license shall not be reissued
22 to the suspended person unless authorized by the director.

23 ~~((2) ((If a person commits any assault upon employees, agents, or~~
24 ~~personnel acting for the department, the director shall suspend hunting~~
25 ~~or fishing privileges for ten years.~~

26 ~~(3))~~ Within twenty days of service of an order suspending
27 privileges or imposing conditions under this section or RCW 77.15.710,
28 a person may petition for administrative review under chapter 34.05 RCW
29 by serving the director with a petition for review. The order is final
30 and unappealable if there is no timely petition for administrative
31 review.

32 ~~((4))~~ (3) The commission may by rule authorize petitions for
33 reinstatement of administrative suspensions and define circumstances
34 under which reinstatement will be allowed.

35 **Sec. 258.** RCW 77.16.020 and 1998 c 190 s 119 are each amended to
36 read as follows:

1 For the purposes of establishing a season or bag limit restriction
2 on Canada goose hunting, the ((department)) commission shall not
3 consider leg length or bill length of dusky Canada geese (*Branta*
4 *canadensis occidentalis*).

5 **Sec. 259.** RCW 77.16.360 and 1997 c 1 s 1 are each amended to read
6 as follows:

7 (1) Notwithstanding the provisions of RCW 77.12.240 ((and
8 77.12.265)) or other provisions of law, it is unlawful to take, hunt,
9 or attract black bear with the aid of bait.

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

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

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

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

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

29 (a) Nothing in this subsection shall be construed to prohibit the
30 killing of black bear, cougar, bobcat, or lynx with the aid of a dog or
31 dogs by employees or agents of county, state, or federal agencies while
32 acting in their official capacities for the purpose of protecting
33 livestock, domestic animals, private property, or the public safety.
34 A dog or dogs may be used by the owner or tenant of real property
35 consistent with a permit issued and conditioned by the director ((under
36 RCW 77.12.265)).

37 (b) Nothing in this subsection shall be construed to prohibit the
38 director from issuing a permit or memorandum of understanding to a

1 public agency, university, or scientific or educational institution for
2 the use of a dog or dogs for the pursuit of black bear, cougar, bobcat,
3 or lynx for scientific purposes.

4 (3) A person who violates subsection (1) or (2) of this section is
5 guilty of a gross misdemeanor. In addition to appropriate criminal
6 penalties, the director shall revoke the hunting license of a person
7 who violates subsection (1) or (2) of this section and a hunting
8 license shall not be issued for a period of five years following the
9 revocation. Following a subsequent violation of subsection (1) or (2)
10 of this section by the same person, a hunting license shall not be
11 issued to the person at any time.

12 **Sec. 260.** RCW 77.17.020 and 1994 c 264 s 56 are each amended to
13 read as follows:

14 For purposes of Article VII of RCW 77.17.010 (as recodified by this
15 act), the term "licensing authority," with reference to this state,
16 means the department. The director is authorized to appoint a compact
17 administrator.

18 **Sec. 261.** RCW 77.18.010 and 1993 sp.s. c 2 s 76 are each amended
19 to read as follows:

20 Unless the context clearly requires otherwise, the definitions in
21 this section apply throughout this chapter.

22 (~~(1) ("Department" means the department of fish and wildlife.~~

23 ~~(2))~~ "Contract" means an agreement setting at a minimum, price,
24 quantity of fish to be delivered, time of delivery, and fish health
25 requirements.

26 ~~((3))~~ (2) "Fish health requirements" means those site specific
27 fish health and genetic requirements actually used by the department of
28 fish and wildlife in fish stocking.

29 ~~((4))~~ (3) "Aquatic farmer" means a private sector person who
30 commercially farms and manages private sector cultured aquatic products
31 on the person's own land or on land in which the person has a present
32 right of possession.

33 ~~((5) "Person" means a natural person, corporation, trust, or other~~
34 ~~legal entity.))~~

35 (4) "Warm water game fish" includes the following species: Bass,
36 channel catfish, walleye, crappie, and other species as defined by the
37 department.

1 **Sec. 262.** RCW 77.21.090 and 1993 c 82 s 5 are each amended to read
2 as follows:

3 (1) Upon receipt of a report of failure to comply with the terms of
4 a citation from the licensing authority of a state that is a party to
5 the wildlife violator compact under RCW 77.17.010 (as recodified by
6 this act), the department shall suspend the violator's license
7 privileges under this title until satisfactory evidence of compliance
8 with the terms of the wildlife citation has been furnished by the
9 issuing state to the department. The department shall adopt by rule
10 procedures for the timely notification and administrative review of
11 such suspension of licensing privileges.

12 (2) Upon receipt of a report of a conviction from the licensing
13 authority of a state that is a party to the wildlife violator compact
14 under RCW 77.17.010 (as recodified by this act), the department shall
15 enter such conviction in its records and shall treat such conviction as
16 if it occurred in the state of Washington for the purposes of
17 suspension, revocation, or forfeiture of license privileges.

18 **Sec. 263.** RCW 77.32.014 and 1998 c 191 s 8 are each amended to
19 read as follows:

20 (1) Licenses, tags, and stamps issued pursuant to this chapter
21 shall be invalid for any period in which a person is certified by the
22 department of social and health services or a court of competent
23 jurisdiction as a person in noncompliance with a support order. Fish
24 and wildlife officers and ex officio fish and wildlife officers shall
25 enforce this section through checks of the department of licensing's
26 computer data base. A listing on the department of licensing's data
27 base that an individual's license is currently suspended pursuant to
28 RCW 46.20.291(~~(+7)~~) (8) shall be prima facie evidence that the
29 individual is in noncompliance with a support order. Presentation of
30 a written release issued by the department of social and health
31 services stating that the person is in compliance with an order shall
32 serve as prima facie proof of compliance with a support order.

33 (2) It is unlawful to purchase, obtain, or possess a license
34 required by this chapter during any period in which a license is
35 suspended.

36 **Sec. 264.** RCW 77.32.090 and 1998 c 191 s 12 are each amended to
37 read as follows:

1 The commission may adopt rules pertaining to the form, period of
2 validity, use, possession, and display of licenses, permits, tags,
3 ~~((and)) stamps, and raffle tickets~~ required by this chapter ~~((and~~
4 ~~raffle tickets authorized under chapter 77.12 RCW))~~.

5 **Sec. 265.** RCW 77.32.199 and 1987 c 372 s 4 are each amended to
6 read as follows:

7 The ~~((commission))~~ director may revoke the trapper's license of a
8 person placing unauthorized traps on private property and may remove
9 those traps.

10 **Sec. 266.** RCW 77.32.250 and 1998 c 191 s 22 are each amended to
11 read as follows:

12 Licenses, permits, tags, and stamps required by this chapter and
13 raffle tickets authorized under this chapter ~~((77.12 RCW))~~ shall not be
14 transferred.

15 Upon request of a fish and wildlife officer or ex officio fish and
16 wildlife officer, persons licensed, operating under a permit, or
17 possessing wildlife under the authority of this chapter shall produce
18 required licenses, permits, tags, stamps, ~~((or))~~ raffle tickets, or
19 catch record cards for inspection and write their signatures for
20 comparison and in addition display their wildlife. Failure to comply
21 with the request is prima facie evidence that the person has no license
22 or is not the person named.

23 **Sec. 267.** RCW 77.32.350 and 1998 c 191 s 25 are each amended to
24 read as follows:

25 In addition to a small game hunting license, a supplemental permit
26 or stamp is required to hunt for western Washington pheasant or
27 migratory birds.

28 (1) A western Washington pheasant permit is required to hunt for
29 pheasant in western Washington. Western Washington pheasant permits
30 must contain numbered spaces for recording the location and date of
31 harvest of each western Washington pheasant. ~~((It is unlawful to~~
32 ~~harvest a western Washington pheasant without immediately recording~~
33 ~~this information on the permit.))~~

34 (2) The permit shall be available as a season option, a youth full
35 season option, or a three-day option. The fee for this permit is:

1 (a) For the resident and nonresident full season option, thirty-six
2 dollars;

3 (b) For the youth full season option, eighteen dollars;

4 (c) For the three-day option, twenty dollars.

5 (3) A migratory bird stamp affixed to a hunting license designated
6 by rule of the commission is required for all persons sixteen years of
7 age or older to hunt migratory birds. The fee for the stamp for
8 hunters is six dollars for residents and nonresidents. The fee for the
9 stamp for collectors is six dollars.

10 (4) The migratory bird stamp shall be validated by the signature of
11 the licensee written across the face of the stamp.

12 **Sec. 268.** RCW 77.32.380 and 1998 c 87 s 1 are each amended to read
13 as follows:

14 (1) Persons who enter upon or use clearly identified department
15 improved access facilities with a motor vehicle may be required to
16 display a current annual fish and wildlife lands vehicle use permit on
17 the motor vehicle while within or while using an improved access
18 facility. An "improved access facility" is a clearly identified area
19 specifically created for motor vehicle parking, and includes any boat
20 launch or boat ramp associated with the parking area, but does not
21 include the department parking facilities at the Gorge Concert Center
22 near George, Washington. The vehicle use permit is issued in the form
23 of a decal. One decal shall be issued at no charge with each annual
24 saltwater, freshwater, combination, small game hunting, big game
25 hunting, and trapping license issued by the department. The annual fee
26 for a fish and wildlife lands vehicle use permit, if purchased
27 separately, is ten dollars. A person to whom the department has issued
28 a decal or who has purchased a vehicle use permit separately may
29 purchase a decal from the department for each additional vehicle owned
30 by the person at a cost of five dollars per decal upon a showing of
31 proof to the department that the person owns the additional vehicle or
32 vehicles. Revenue derived from the sale of fish and wildlife lands
33 vehicle use permits shall be used solely for the stewardship and
34 maintenance of department improved access facilities. ((Revenue
35 derived from the sale of fish and wildlife lands vehicle use permits
36 shall be used solely for the stewardship and maintenance of department
37 improved access facilities.))

1 Youth groups may use department improved access facilities without
2 possessing a vehicle use permit when accompanied by a vehicle use
3 permit holder.

4 The department may accept contributions into the state wildlife
5 fund for the sound stewardship of fish and wildlife. Contributors
6 shall be known as "conservation patrons" and, for contributions of
7 twenty dollars or more, shall receive a fish and wildlife lands vehicle
8 use permit free of charge.

9 (2) The decal must be affixed in a permanent manner to the motor
10 vehicle before entering upon or using the motor vehicle on a department
11 improved access facility, and must be displayed on the rear window of
12 the motor vehicle, or, if the motor vehicle does not have a rear
13 window, on the rear of the motor vehicle.

14 (3) Failure to display the fish and wildlife lands vehicle use
15 permit if required by this section is an infraction under chapter 7.84
16 RCW, and department employees are authorized to issue a notice of
17 infraction to the registered owner of any motor vehicle entering upon
18 or using a department improved access facility without such a decal.
19 The penalty for failure to display or improper display of the decal is
20 sixty-six dollars.

21 **Sec. 269.** RCW 77.32.420 and 1998 c 191 s 4 are each amended to
22 read as follows:

23 ~~((1))~~ Recreational licenses are not transferable. Upon request
24 of a fish and wildlife officer, ex officio fish and wildlife officer,
25 or authorized fish and wildlife employee, a person digging for, fishing
26 for, or possessing shellfish, or seaweed or fishing for or possessing
27 food fish or game fish for personal use shall exhibit the required
28 recreational license and write his or her signature for comparison with
29 the signature on the license. Failure to comply with the request is
30 prima facie evidence that the person does not have a license or is not
31 the person named on the license.

32 ~~((2) The personal use shellfish and seaweed license shall be
33 visible on the licensee while harvesting shellfish or seaweed.))~~

34 **Repealed Sections**

35 NEW SECTION. **Sec. 270.** The following acts or parts of acts are
36 each repealed:

- 1 (1) RCW 77.08.070 ("Raffle" defined) and 1996 c 101 s 4;
- 2 (2) RCW 77.12.101 (Seizure of contraband wildlife and devices--
3 Forfeiture) and 1989 c 314 s 2;
- 4 (3) RCW 77.16.210 (Fishways to be provided and maintained) and 1980
5 c 78 s 88 & 1955 c 36 s 77.16.210;
- 6 (4) RCW 77.16.220 (Diversion of water--Screen, bypass required) and
7 1998 c 190 s 122, 1980 c 78 s 89, & 1955 c 36 s 77.16.220;
- 8 (5) RCW 77.16.290 (Law enforcement officers, exemption) and 1994
9 sp.s. c 7 s 444, 1980 c 78 s 95, & 1955 c 36 s 77.16.290;
- 10 (6) RCW 77.16.340 (Obstructing the taking of fish or wildlife--
11 Penalty--Defenses) and 1988 c 265 s 1;
- 12 (7) RCW 77.16.350 (Obstructing the taking of fish or wildlife--
13 Civil action) and 1988 c 265 s 2;
- 14 (8) RCW 77.21.020 (Revocation of hunting license for big game
15 violation--Subsequent issuance--Appeal) and 1998 c 191 s 35, 1987 c 506
16 s 70, 1980 c 78 s 124, & 1975 1st ex.s. c 6 s 1;
- 17 (9) RCW 77.21.030 (Revocation for shooting person or livestock--
18 Subsequent issuance) and 1998 c 191 s 36, 1987 c 506 s 71, 1980 c 78 s
19 123, & 1955 c 36 s 77.32.280;
- 20 (10) RCW 77.21.070 (Illegal killing or possession of wildlife--
21 Restitution to state--Amounts--Bail--License revoked) and 1997 c 226 s
22 2, 1989 c 11 s 28, 1987 c 506 s 74, 1986 c 318 s 1, 1984 c 258 s 336,
23 & 1983 1st ex.s. c 8 s 3;
- 24 (11) RCW 77.32.005 (Definitions) and 1998 c 191 s 6, 1989 c 305 s
25 17, 1980 c 78 s 102, 1961 c 94 s 1, & 1957 c 176 s 14;
- 26 (12) RCW 77.32.060 (Licenses, permits, tags, stamps, and raffle
27 tickets--Amount of fees to be retained by license dealers) and 1998 c
28 245 s 160, 1996 c 101 s 9, 1995 c 116 s 2, 1987 c 506 s 78, 1985 c 464
29 s 1, 1981 c 310 s 17, 1980 c 78 s 107, 1979 ex.s. c 3 s 3, 1970 ex.s.
30 c 29 s 2, 1957 c 176 s 2, & 1955 c 36 s 77.32.060; and
- 31 (13) RCW 77.44.020 (Species included in term "warm water game
32 fish") and 1996 c 222 s 2.

33

Recodified Sections

34 NEW SECTION. **Sec. 271.** RCW 77.04.100, 77.16.020, 77.16.095, and
35 77.21.080 are each recodified as sections in chapter 77.12 RCW.

1 NEW SECTION. **Sec. 272.** RCW 77.12.080, 77.12.090, 77.12.095,
2 77.12.103, 77.16.070, 77.16.360, and 77.21.090 are each recodified as
3 sections in chapter 77.15 RCW.

4 NEW SECTION. **Sec. 273.** RCW 77.12.530, 77.12.770, 77.12.780,
5 77.16.010, and 77.16.170 are each recodified as sections in chapter
6 77.32 RCW.

7 NEW SECTION. **Sec. 274.** RCW 77.18.005, 77.18.010, 77.18.020, and
8 77.18.030 are recodified as sections in chapter 77.44 RCW.

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