

SSB 5688 - H COMM AMD

By Committee on Agriculture & Natural Resources

ADOPTED 04/05/2011

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** The legislature finds and declares the
4 following:

5 (1) The practice of shark finning, where a shark is caught, its
6 fins are sliced off while it is still alive, and the animal returned to
7 the sea severely and almost always fatally wounded, constitutes a
8 serious threat to Washington's coastal ecosystem and biodiversity.
9 Sharks are particularly susceptible to overfishing because they only
10 reach sexual maturity between seven to twelve years of age and hatch or
11 birth small litters. The destruction of the population of sharks,
12 which reside at the top of the marine food chain, is an urgent problem
13 that upsets the balance of species in the ocean ecosystem.

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

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

24 (4) The consumption of shark fins and shark fin derivative products
25 by humans may cause serious health risks, including risks from mercury.

26 NEW SECTION. **Sec. 2.** A new section is added to chapter 77.15 RCW
27 to read as follows:

28 (1) Except as otherwise provided in this section, a person is
29 guilty of unlawful trade in shark fins in the second degree if:

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

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

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

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

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

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

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

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

30 (4) Any person who obtains a license or permit issued by the
31 department to take or possess sharks or shark parts for bona fide
32 research or educational purposes, and who sells, offers for sale,
33 purchases, offers to purchase, or otherwise trades a shark fin or shark
34 fin derivative product, exclusively for bona fide research or
35 educational purposes, may not be held liable under or subject to the
36 penalties of this section.

37 (5) Nothing in this section prohibits the sale, offer for sale,
38 purchase, offer to purchase, or other exchange of shark fins or shark

1 fin derivative products for commercial purposes, or preparation or
2 processing of shark fins or shark fin derivative products for purposes
3 of human or animal consumption for commercial purposes, if the shark
4 fins or shark fin derivative products were lawfully harvested or
5 lawfully acquired prior to the effective date of this section.

6 **Sec. 3.** RCW 77.08.010 and 2009 c 333 s 12 are each amended to read
7 as follows:

8 The definitions in this section apply throughout this title or
9 rules adopted under this title unless the context clearly requires
10 otherwise.

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

14 (2) "Aquatic invasive species" means any invasive, prohibited,
15 regulated, unregulated, or unlisted aquatic animal or plant species as
16 defined under subsections (3), (28), (40), (44), (58), and (59) of this
17 section, aquatic noxious weeds as defined under RCW 17.26.020(5)(c),
18 and aquatic nuisance species as defined under RCW 77.60.130(1).

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

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

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

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

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

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

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

4 (10) "Concurrent waters of the Columbia river" means those waters
5 of the Columbia river that coincide with the Washington-Oregon state
6 boundary.

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

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

12 (13) "Department" means the department of fish and wildlife.

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

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

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

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

30 (18) "Fish and wildlife officer" means a person appointed and
31 commissioned by the director, with authority to enforce this title and
32 rules adopted pursuant to this title, and other statutes as prescribed
33 by the legislature. Fish and wildlife officer includes a person
34 commissioned before June 11, 1998, as a wildlife agent or a fisheries
35 patrol officer.

36 (19) "Fish broker" means a person whose business it is to bring a
37 seller of fish and shellfish and a purchaser of those fish and
38 shellfish together.

1 (20) "Fishery" means the taking of one or more particular species
2 of fish or shellfish with particular gear in a particular geographical
3 area.

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

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

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

11 (24) "Game birds" means wild birds that shall not be hunted except
12 as authorized by the commission.

13 (25) "Game farm" means property on which wildlife is held or raised
14 for commercial purposes, trade, or gift. The term "game farm" does not
15 include publicly owned facilities.

16 (26) "Game reserve" means a closed area where hunting for all wild
17 animals and wild birds is prohibited.

18 (27) "Illegal items" means those items unlawful to be possessed.

19 (28) "Invasive species" means a plant species or a nonnative animal
20 species that either:

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

23 (b) Threatens or may threaten natural resources or their use in the
24 state;

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

27 (d) Threatens or harms human health.

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

31 (30) "Limited-entry license" means a license subject to a license
32 limitation program established in chapter 77.70 RCW.

33 (31) "Money" means all currency, script, personal checks, money
34 orders, or other negotiable instruments.

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

37 (33) "Offshore waters" means marine waters of the Pacific Ocean

1 outside the territorial boundaries of the state, including the marine
2 waters of other states and countries.

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

11 (35) "Owner" means the person in whom is vested the ownership
12 dominion, or title of the property.

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

19 (37) "Personal property" or "property" includes both corporeal and
20 incorporeal personal property and includes, among other property,
21 contraband and money.

22 (38) "Personal use" means for the private use of the individual
23 taking the fish or shellfish and not for sale or barter.

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

26 (40) "Prohibited aquatic animal species" means an invasive species
27 of the animal kingdom that has been classified as a prohibited aquatic
28 animal species by the commission.

29 (41) "Protected wildlife" means wildlife designated by the
30 commission that shall not be hunted or fished.

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

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

1 (44) "Regulated aquatic animal species" means a potentially
2 invasive species of the animal kingdom that has been classified as a
3 regulated aquatic animal species by the commission.

4 (45) "Resident" means:

5 (a) A person who has maintained a permanent place of abode within
6 the state for at least ninety days immediately preceding an application
7 for a license, has established by formal evidence an intent to continue
8 residing within the state, and who is not licensed to hunt or fish as
9 a resident in another state; and

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

13 (46) "Retail-eligible species" means commercially harvested salmon,
14 crab, and sturgeon.

15 (47) "Saltwater" means those marine waters seaward of river mouths.

16 (48) "Seaweed" means marine aquatic plant species that are
17 dependent upon the marine aquatic or tidal environment, and exist in
18 either an attached or free floating form, and includes but is not
19 limited to marine aquatic plants in the classes Chlorophyta,
20 Phaeophyta, and Rhodophyta.

21 (49) "Senior" means a person seventy years old or older.

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

27 (51) "State waters" means all marine waters and fresh waters within
28 ordinary high water lines and within the territorial boundaries of the
29 state.

30 (52) "To fish," "to harvest," and "to take," and their derivatives
31 means an effort to kill, injure, harass, or catch a fish or shellfish.

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

34 (54) "To process" and its derivatives mean preparing or preserving
35 fish, wildlife, or shellfish.

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

1 (56) "Trafficking" means offering, attempting to engage, or
2 engaging in sale, barter, or purchase of fish, shellfish, wildlife, or
3 deleterious exotic wildlife.

4 (57) "Unclaimed" means that no owner of the property has been
5 identified or has requested, in writing, the release of the property to
6 themselves nor has the owner of the property designated an individual
7 to receive the property or paid the required postage to effect delivery
8 of the property.

9 (58) "Unlisted aquatic animal species" means a nonnative animal
10 species that has not been classified as a prohibited aquatic animal
11 species, a regulated aquatic animal species, or an unregulated aquatic
12 animal species by the commission.

13 (59) "Unregulated aquatic animal species" means a nonnative animal
14 species that has been classified as an unregulated aquatic animal
15 species by the commission.

16 (60) "Wholesale fish dealer" means a person who, acting for
17 commercial purposes, takes possession or ownership of fish or shellfish
18 and sells, barter, or exchanges or attempts to sell, barter, or
19 exchange fish or shellfish that have been landed into the state of
20 Washington or entered the state of Washington in interstate or foreign
21 commerce.

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

27 (62) "Wild birds" means those species of the class Aves whose
28 members exist in Washington in a wild state.

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

1 (64) "Youth" means a person fifteen years old for fishing and under
2 sixteen years old for hunting.

3 (65) "Shark fin" means a raw, dried, or otherwise processed
4 detached fin or tail of a shark.

5 (66)(a) "Shark fin derivative product" means any product intended
6 for use by humans or animals that is derived in whole or in part from
7 shark fins or shark fin cartilage.

8 (b) "Shark fin derivative product" does not include a drug approved
9 by the United States food and drug administration and available by
10 prescription only or medical device or vaccine approved by the United
11 States food and drug administration."

12 Correct the title.

EFFECT: Moves the definitions to the Title 77 RCW definition section; replaces the word "take" with "harvest"; restructures the provisions to avoid the word "notwithstanding"; rewords the "closed season" and "closed area" concepts to explain the meaning of the concept; clarifies that any license suspensions apply to the convicted person if they are a commercial fisher.

--- END ---