

HOUSE BILL REPORT

HB 1416

*As Reported By House Committee on:
Fisheries & Wildlife*

Title: An act relating to game fish mitigation.

Brief Description: Establishing a plan for mitigation requirements if game fish habitat is impaired.

Sponsor(s): Representatives R. King, Fuhrman, Hochstatter, Padden, Basich, Morris, Dorn, R. Meyers and Winsley.

Brief History:

Reported by House Committee on:
Fisheries & Wildlife, February 15, 1991, DPS.

**HOUSE COMMITTEE ON
FISHERIES & WILDLIFE**

Majority Report: *That Substitute House Bill No. 1416 be substituted therefor, and the substitute bill do pass.*
Signed by 11 members: Representatives R. King, Chair; Morris, Vice Chair; Wilson, Ranking Minority Member; Fuhrman, Assistant Ranking Minority Member; Basich; Cole; Haugen; Hochstatter; Orr; Padden; and Spanel.

Staff: Keitlyn Watson (786-7310).

Background: Fish and wildlife are protected under various state and federal habitat protection laws.

The Department of Wildlife can require or recommend mitigation or conditions on a variety of permits and licenses, for the purpose of wildlife protection. Recommendations to the Federal Energy Regulatory Commission for hydroelectric projects and under the Fish and Wildlife Coordination Act for Army Corps of Engineers or Bureau of Reclamation projects may include a game fish stocking component. The fish stocking component can be met by constructing new fish hatcheries or rearing facilities, or by utilizing existing state or private hatcheries or rearing facilities. Current law does not address which of these options shall be used. Current law does not address how the Department of Wildlife shall define the numbers and species of fish that are required for stocking. There is nothing in current law that prevents the purchase of fish from a

private aquaculturist, either for mitigation purposes or for other purposes.

Summary of Substitute Bill: Where the Department of Wildlife is recommending or requiring game fish stocking as a condition of an environmental permit or license, then the department shall specify the pounds, numbers, species, stock and/or race of resident game fish that shall be provided. The Department of Wildlife shall allow the permittee or licensee to purchase fish that meet these requirements from private aquatic farmers in Washington for stocking. Any state or federal agency, branch of state government, political subdivision of the State, private or public utility company, corporation, or sports group may purchase game fish for stocking from an aquatic farmer. Fish stocking is subject to all permit requirements of the Department of Wildlife.

Substitute Bill Compared to Original Bill: The original bill incorrectly attributes statements pertaining to the use of water to various state and federal acts. These statements are deleted from the substitute bill.

The original bill appears to give the Department of Wildlife the authority to require mitigation of damages on all environmental permits. The substitute bill does not expand the Department of Wildlife's current authority relative to environmental permits.

The original bill requires that all Department of Wildlife conditions on environmental permits or licenses be expressed in pounds or numbers of game fish to be stocked, and requires the department to allow a permittee to purchase these fish from a private aquatic farmer. The original bill does not indicate that compliance with all permits administered by the Department of Wildlife is required in order to stock these fish. The substitute bill requires the Department of Wildlife to allow a permittee or licensee to purchase fish from a private aquatic farmer in Washington, unless the required fish are not available in Washington, and to stock these fish only in the following situations: 1) when fish stocking is a requirement or recommendation of the department on an environmental permit or license; 2) when fish meet genetic and health standards of the department; and 3) when all permit requirements of the Department of Wildlife have been met.

The original bill requires that the Department of Wildlife use funds that had been donated to the department for fish stocking, only for that purpose. This provision was deleted from the substitute bill.

Fiscal Note: Available.

Effective Date of Substitute Bill: July 28, 1991.

Testimony For: The cost of hatcheries for mitigation is high. Purchasing fish by contract from a private aquaculturist is more cost effective.

Testimony Against: The bill as written is unclear. It may give the Department of Wildlife authority that it doesn't have. It appears to require fish stocking for all permits, including forest practice approvals permits and hydraulic project permits. It incorrectly refers to aquaculture as a preferred use of water in the State Environmental Policy Act and the Clean Water Act. The definition of mitigation should follow the one currently in use by all the agencies. The bill does not take into account the possibility that fish may not be available within the State. The reference to regional plans is ambiguous. The bill is unclear as to who has, or should have, the authority to stock fish in state waters.

Witnesses: Jim Zimmerman, Trout Lodge, Inc. (in favor); Brad Pruitt, Trout Unlimited (in favor); Laura Eckert, Department of Natural Resources (neutral on concept, but with concerns about ambiguities in bill); and Ron Peregrin and John Kerwin, Department of Wildlife (in favor with concerns; bill is ambiguous and unnecessarily restrictive).