

HOUSE BILL REPORT

ESHB 1771

As Passed House
March 13, 1993

Title: An act relating to protection of fish life.

Brief Description: Taking measures to prevent the destruction of fish protection devices.

Sponsors: By House Committee on Fisheries & Wildlife
(originally sponsored by Representatives King and Jacobsen.)

Brief History:

Reported by House Committee on:
Fisheries & Wildlife, February 23, 1993, DPS;
Passed House, March 13, 1993, 97-0.

HOUSE COMMITTEE ON FISHERIES & WILDLIFE

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 8 members: Representatives King, Chair; Orr, Vice Chair; Fuhrman, Ranking Minority Member; Sehlin, Assistant Ranking Minority Member; Basich; Chappell; Foreman; and Scott.

Staff: Keitlyn Watson (786-7310).

Background: Water diversions for irrigation and public water systems are currently required by law to be equipped with a fish guard or screen or bypass (RCW 77.16.220 and RCW 75.20.040). The departments of Fisheries and Wildlife enforce these laws, and can close water diversion devices not in compliance. Violation of either of these laws is a gross misdemeanor (RCW 75.10.110 and RCW 77.21.010). Removal of or tampering with these devices may have a significant impact on fish populations by allowing juvenile fish into the irrigation or water system, or by not allowing passage of adult fish.

Summary of Bill: It is unlawful to destroy or damage a fish screen, guard or bypass, and to modify such a structure if the modification causes unnecessarily a substantial risk of death to fish. Unnecessary modification is defined as other than that necessary for maintenance and operation or research, provided that such maintenance and operation or research is conducted in a manner that minimizes the risk of death to fish. The departments of Fisheries and Wildlife

are authorized to close a water diversion device if unlawful damage or destruction or unnecessary modification occurs, until the structures are replaced or repaired. If loss of fish occurs because of unlawful damage, destruction, or modification of the structures, the departments are required to close the devices until the structures are repaired or replaced. Closures of diversion devices may only occur if water availability for other water users is not affected. The first offense is subject to a civil penalty of between \$2,500 and \$5,000, and any subsequent offense is subject to a civil penalty of between \$2,500 and \$10,000. Violators are required to reimburse the state for the value of fish lost, as determined by the departments of Fisheries and Wildlife.

Fiscal Note: Available.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: Fish guards, screens and bypass devices protect salmon and other fish. Destruction of required devices is detrimental to fish life. Proposed legislation allows for immediate department enforcement action when a required screen, guard or bypass is found to be destroyed or removed.

Testimony Against: None.

Witnesses: Cyreis Schmitt, Department of Fisheries (pro).