

HOUSE BILL REPORT

HB 2365

As Reported By House Committee On:
Fisheries & Wildlife

Title: An act relating to reducing disturbance to fish, wildlife, and their habitats.

Brief Description: Reducing disturbances to fish, wildlife, and their habitats.

Sponsors: Representatives Foreman, King, Rust and Quall.

Brief History:

Reported by House Committee on:
Fisheries & Wildlife, February 4, 1994, DPS.

HOUSE COMMITTEE ON FISHERIES & WILDLIFE

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives King, Chair; Orr, Vice Chair; Fuhrman, Ranking Minority Member; Sehlin, Assistant Ranking Minority Member; Basich; Chappell; Foreman; Quall and Scott.

Staff: Keitlyn Watson (786-7310).

Background: The scientific literature indicates that in some cases there is an effect of motorized vehicles or boats on wildlife, and there is concern that certain motorized vessels can negatively affect fish habitat.

Under current law, local governments, rather than any state agency, are authorized to designate certain waters as closed to boating, although the State Parks and Recreation Commission has adopted a model boating ordinance for use by local governments that would preclude boating at speeds greater than seven nautical miles per hour within 100 feet of shore.

Summary of Substitute Bill: The Department of Fish and Wildlife is authorized to restrict use of freshwater of the state by motor driven vessels if:

- (1) The department identifies that there are spawning grounds of state or federally listed endangered, threatened, or sensitive species of fish, or stocks of

fish in depressed or critical condition, within the area of potential restriction;

- (2) The department allows vessels to operate at speeds no greater than those sufficient to maintain steerage to reach their destinations in the open area, unless, in the department's judgement, operation within the restricted area at times or speeds prescribed by the department does not harm the fish or spawning grounds;
- (3) The department has coordinated with relevant federal agencies to ensure compliance with federal laws; and
- (4) The state has formally indicated a concern with impacts to the spawning grounds within the area of potential restriction, by having requested review by the relevant Growth Planning Hearings Board of local critical area designations or development regulations to protect critical areas.

Restrictions established by the department preclude local government regulations that are in conflict, unless such regulations are more restrictive. Operation of a vessel in restricted areas in violation of the restrictions constitutes a misdemeanor. A minimum penalty of \$500.00 for the first offense and \$1,000.00 for each subsequent offense is established.

Substitute Bill Compared to Original Bill: The proposed substitute authorizes the department to declare areas as restricted, rather than as closed.

The proposed substitute allows restrictions if the department identifies spawning grounds of fish that are endangered, threatened, sensitive, or in critical or depressed condition, and if the state has formally indicated a concern with impacts to the spawning grounds within the area of potential restriction, by having requested review by the relevant Growth Planning Hearings Board of local critical area designations or development regulations to protect critical areas. The original bill allows such restrictions if there is a potential disturbance to wildlife, fish, or their habitats from operation of motor driven vessels.

The proposed substitute allows the department to authorize vessel operation within the closed area at times or speeds prescribed by the department if not harmful to fish or spawning grounds.

The proposed substitute adds a provision that the department must coordinate with appropriate federal agencies to ensure

compliance with federal laws prior to imposing a restriction.

The proposed substitute limits the areas of potential restrictions to fresh water.

Fiscal Note: Available.

Effective Date of Substitute Bill: July 1, 1994.

Testimony For: (original bill) Scientific research has shown that motorized boats can harm fish life by travelling fast near the shore. Agitation of water can stir up sediment and silt to interfere with salmon spawn; noise and vibrations may disturb nesting waterfowl as well as spawning fish. Local governments in Chelan and Okanogan counties have boating ordinances, but not sufficient restrictions to protect spawning fish. The bill authorizes the Department of Fisheries to regulate motorized boats within 150 feet of shore, when necessary and appropriate to protect fish life. Since the state has imposed restrictions on agriculture, forestry and other sectors in the interests of protecting salmon and other fish, it makes sense to address the threat to fish posed by motorized boating.

Testimony Against: (on original bill) The departments of Fisheries and Wildlife are not the appropriate agencies to enforce this bill; boating ordinances are a local purview. The departments would bear the burden of proving violations, and lack basic equipment for doing so. The agency lacks enforcement personnel, and enforcement should be done by local agencies, which will receive revenues from the penalty fees established in the bill.

(on proposed substitute) Too many boating regulations have a negative impact on the recreational boating industry. The penalty is too stringent. Unintentional impacts on steamboats and tugboats may result. Implementation will be very costly.

Witnesses: (on original bill) Representative Dale Foreman, prime sponsor (pro); and Ed Manary, Department of Fisheries (concerns).

(on proposed substitute) David Jennings, Black Hills Audubon Society (pro, prefer original bill); Ed Manary, Department of Fisheries (concerns); John Woodring, Personal Watercraft Industry Association (con); Jack Swanberg, Northwest Marine Trade Association (con); Bill Legacy, Recreational Boating Association of Washington (con); and Randy Ray, Puget Sound Steamship Operators Association and Marine Environment Coalition (con).