

SENATE BILL REPORT

2ESHB 1771

AS REPORTED BY COMMITTEE ON NATURAL RESOURCES, FEBRUARY 25, 1994

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

**SPONSORS:** House Committee on Fisheries & Wildlife (originally sponsored by Representatives King and Jacobsen)

**HOUSE COMMITTEE ON FISHERIES & WILDLIFE**

**SENATE COMMITTEE ON NATURAL RESOURCES**

**Majority Report:** Do pass as amended.

Signed by Senators Owen, Chairman; Hargrove, Vice Chairman; Amondson, Erwin, Franklin, Haugen, Oke and Snyder.

**Staff:** Ross Antipa (786-7413)

**Hearing Dates:** March 22, 1993; February 16, 1994; February 25, 1994

**BACKGROUND:**

Water diversions for irrigation systems and public water systems are currently required by law to be equipped with a fish guard, 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:**

It is unlawful to destroy or damage a fish guard, screen 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 Department of Fish and Wildlife is authorized to close a water diversion device if unlawful damage, destruction or unnecessary modification occurs, until the structures are replaced or repaired. 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 Department of Fish and Wildlife.

**SUMMARY OF PROPOSED COMMITTEE AMENDMENT:**

Language is added to require compliance with the fish screen regulations in 30 days or to develop a simple compliance plan for department approval. If the person fails to comply in 30 days or to comply with the approved plan, civil penalties of \$500 to \$5,000 for the first offense and \$2,500 to \$10,000 for subsequent offenses may be assessed by a court.

A special account is created for fines and the funds must be used to buy fish from private aquaculture farmers for planting in Washington waters.

**Appropriation:** none

**Revenue:** none

**Fiscal Note:** available

**TESTIMONY FOR:**

Fish screens are very important to protect warm and fresh water migrating fish.

**TESTIMONY AGAINST:**

Language needs to be clarified to make the bill work.

**TESTIFIED:** PRO: Rep. King; Cyrese Schmitt, Dept. of Fish and Wildlife; CON: Kent Lebsack, Cattlemen's Assn. (original bill)