
ENGROSSED SUBSTITUTE HOUSE BILL 1771

State of Washington

53rd Legislature

1993 Regular Session

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

Read first time 02/25/93.

1 AN ACT Relating to protection of fish life; adding new sections to
2 chapter 75.20 RCW; adding a new section to chapter 77.16 RCW; creating
3 a new section; and prescribing penalties.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** The legislature finds that salmonids and
6 other fish are important to citizens of the state, and that numerous
7 stocks of salmonids are declining in Washington. Certain regulatory
8 protections exist for fish. One such protection is the statutory
9 requirement that certain water diversions be screened. Another is
10 that bypasses be constructed for fish passage. The legislature finds
11 that such protective devices are being intentionally destroyed,
12 damaged, or modified in ways that result in loss of fish, and that
13 existing penalties are insufficient to prevent such damage. The
14 legislature declares that measures must be taken to prevent destruction
15 of screens in order to benefit the salmonid resources of the state.

16 NEW SECTION. **Sec. 2.** A new section is added to chapter 75.20 RCW
17 to read as follows:

1 It is unlawful to intentionally destroy or damage fish guards,
2 screens, or bypasses. It is also unlawful to unnecessarily modify such
3 structures if the modification causes a substantial risk of death to
4 fish. Unnecessary modification includes modification other than that
5 necessary for maintenance and operation or research, provided such
6 maintenance and operation or research is conducted in a manner to
7 minimize risk of death to fish. The director may close a water
8 diversion device if the director finds that the holder of the water
9 right associated with the diversion has unlawfully destroyed, damaged,
10 or modified, or caused to be unlawfully destroyed, damaged, or
11 modified, a fish guard, screen, or bypass on the diversion and if such
12 closure does not affect water availability for any other water user.
13 If the unlawful destruction, damage, or modification by the water right
14 holder results in the loss of fish, the director shall close the
15 diversion device if the closure does not affect water availability for
16 any other water user. Proceedings under this section shall be in
17 accordance with chapter 34.05 RCW. The water diversion device shall
18 remain closed until the holder of the water right has repaired or
19 replaced the fish guard, screen, or bypass to the satisfaction of the
20 director. For the first offense, the director may levy a civil penalty
21 of a minimum of two thousand five hundred dollars and not to exceed
22 five thousand dollars. For each subsequent offense, the director may
23 levy a civil penalty of a minimum of two thousand five hundred dollars
24 and not to exceed ten thousand dollars.

25 NEW SECTION. **Sec. 3.** A new section is added to chapter 77.16 RCW
26 to read as follows:

27 It is unlawful to intentionally destroy or damage fish guards,
28 screens, or bypasses. It is also unlawful to unnecessarily modify such
29 structures if the modification causes a substantial risk of death to
30 fish. Unnecessary modification includes modification other than that
31 necessary for maintenance and operation or research, provided such
32 maintenance and operation or research is conducted in a manner to
33 minimize risk of death to fish. The director may close a water
34 diversion device if the director finds that the holder of the water
35 right associated with the diversion has unlawfully destroyed, damaged,
36 or modified, or caused to be unlawfully destroyed, damaged, or
37 modified, a fish guard, screen, or bypass on the diversion and if such
38 closure does not affect water availability for any other water user.

1 If the unlawful destruction, damage, or modification by the water right
2 holder results in the loss of fish, the director shall close the
3 diversion device if the closure does not affect water availability for
4 any other water user. Proceedings under this section shall be in
5 accordance with chapter 34.05 RCW. The water diversion device shall
6 remain closed until the holder of the water right has repaired or
7 replaced the fish guard, screen, or bypass to the satisfaction of the
8 director. For the first offense, the director may levy a civil penalty
9 of a minimum of two thousand five hundred dollars and not to exceed
10 five thousand dollars. For each subsequent offense, the director may
11 levy a civil penalty of a minimum of two thousand five hundred dollars
12 and not to exceed ten thousand dollars.

13 NEW SECTION. **Sec. 4.** A new section is added to chapter 75.20 RCW
14 to read as follows:

15 If fish are lost due to violations of section 2 or 3 of this act,
16 the violator shall reimburse the state for the value of the fish, as
17 determined by the department of fisheries or wildlife. Reimbursement
18 moneys shall be deposited into the state general fund.

--- END ---