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ENGROSSED SUBSTITUTE HOUSE BILL 1771

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State of Washington

53rd Legislature

1994 Regular Session

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

Read first time 02/23/93. Referred to Committee on .

1 AN ACT Relating to protection of fish life; adding a new section to  
2 chapter 75.20 RCW; adding a new section to chapter 77.16 RCW; adding a  
3 new section to chapter 90.03 RCW; creating a new section; and  
4 prescribing penalties.

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

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

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

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

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

23 It is unlawful to intentionally destroy or damage fish guards,  
24 screens, or bypasses. It is also unlawful to modify such structures if  
25 the modification causes unnecessary harm to fish life. The director  
26 may close a water diversion device if the director finds that the  
27 holder of the water right associated with the diversion has unlawfully  
28 destroyed or damaged, or caused to be unlawfully destroyed or damaged,  
29 a fish guard, screen, or bypass on the diversion and if such closure  
30 does not affect water availability for any other water user. If the  
31 destruction, damage, or modification by the water right holder results  
32 in the loss of fish, the director shall close the diversion device if  
33 the closure does not affect water availability for any other water  
34 user. Proceedings under this section shall be in accordance with  
35 chapter 34.05 RCW. The water diversion device shall remain closed  
36 until the holder of the water right has repaired or replaced the fish  
37 guard, screen, or bypass to the satisfaction of the director. For the  
38 first offense, the director may levy a civil penalty of a minimum of

1 two thousand five hundred dollars and not to exceed five thousand  
2 dollars. For each subsequent offense, the director may levy a civil  
3 penalty of a minimum of two thousand five hundred dollars and not to  
4 exceed ten thousand dollars.

5 NEW SECTION. **Sec. 4.** A new section is added to chapter 90.03 RCW  
6 to read as follows:

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

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