

HOUSE BILL REPORT

HB 1227

As Reported By House Committee On:
Natural Resources

Title: An act relating to recovery of moneys pursuant to forfeitures or court-ordered restitution.

Brief Description: Authorizing retention of specified moneys recovered through forfeitures or court-ordered restitution.

Sponsors: Representatives Buck, Basich, Fuhrman and Kessler; by request of Department of Fish and Wildlife.

Brief History:

Committee Activity:

Natural Resources: 1/31/95, 2/3/95 [DPS].

HOUSE COMMITTEE ON NATURAL RESOURCES

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 15 members: Representatives Fuhrman, Chairman; Buck, Vice Chairman; Pennington, Vice Chairman; Basich, Ranking Minority Member; Regala, Assistant Ranking Minority Member; Beeksma; Cairnes; Elliot; G. Fisher; Jacobsen; Romero; Sheldon; Stevens; B. Thomas and Thompson.

Staff: Pam Madson (786-7166).

Background: In 1994, the Department of Fisheries and the Department of Wildlife were merged into one department. During the transition from two agencies to one agency, certain policies and structures remain in statute as they were under the two separate agencies.

When a person violates certain wildlife statutes, he or she may be subject to fines or jail time or both, and, if the violation involves certain species of wild animals designated as big game animals (moose, elk, bear, cougar, mountain sheep, or antelope) or endangered species, they may also be subject to a reimbursement assessment in an amount specified in statute. There is no comparable reimbursement assessment provision for violations involving species of fish under the jurisdiction of the former Department of Fisheries. Moneys from court ordered reimbursement payments are deposited in the state general fund.

Both the former Department of Fisheries and the former Department of Wildlife were authorized to seize property involved in violations of the fish and wildlife statutes. The seized property may be kept by the department, transferred to another agency for enforcement of the fish and wildlife statutes, or sold. The proceeds of sale under the former Department of Fisheries are deposited in the state general fund. The state's general fund supports expenditures for general government purposes. The proceeds from sale under the former Department of Wildlife are deposited in the Wildlife Fund. The Wildlife Fund is a dedicated fund to be used to support programs for wildlife and game fish. The Wildlife Fund is appropriated by the Legislature.

Under the state criminal code, a person who violates the state's criminal statutes may be sentenced to serve time in jail (or prison for felony crimes) or pay a fine or both. As part of an offender's sentence, a court may also award restitution. Restitution is the payment of a sum of money by an offender over a specific period of time for damages which may include both public and private costs. Restitution shall not exceed double the amount of the offender's gain or the victim's loss and shall be based on easily ascertainable damages for injury to or loss of property. If a court orders restitution payments by a person convicted of violating fish and wildlife statutes, payment of restitution is made to the state and is deposited in the state general fund.

Summary of Substitute Bill: The net proceeds from the sale of property seized for violation of statutes under the jurisdiction of the former Department of Fisheries is deposited in the state general fund. Net proceeds are the moneys remaining after first deducting from the sale proceeds, a bona fide security interest in the property sold, and second, the expenses incurred by the department for investigation and prosecution of the forfeiture. The amount representing the expenses incurred by the department is deposited in the Fish Habitat Restoration Fund.

The Fish Habitat Restoration Fund is created. Moneys from the fund may be spent by the Fish and Wildlife Department for protection, rehabilitation, preservation, or conservation of the state fish resource including its habitat. The fund is subject to allotment but is not subject to appropriation. Only the director may authorize expenditures from the fund.

Any restitution ordered by a court for violation of statutes under the jurisdiction of the former Department of Fisheries is deposited in the Fish Habitat Restoration Fund. Any restitution ordered by the court for violation of statutes under the jurisdiction of the former Department of Wildlife is deposited into the Wildlife Fund. Reimbursement assessments for big game losses are deposited into the Wildlife Fund.

Substitute Bill Compared to Original Bill: The amount representing the expenses incurred by the Department of Fish and Wildlife for investigating and prosecuting a

forfeiture of seized property is deposited into the Fish Habitat Restoration Fund by express direction.

Appropriation: None.

Fiscal Note: Requested January 26, 1995.

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

Testimony For: This bill does not increase fines or fees or change the way the courts currently distribute fines. Courts are reluctant to assess restitution or reimbursement assessments because the money does not go back to fish and wildlife programs. Having courts impose restitution and reimbursement that comes back to the agency helps support the increasing costs of enforcement and investigation of fish and wildlife violations. The bill also clarifies ambiguity in how the court disburses reimbursement assessments under the wildlife code by directing that money to the Wildlife Fund.

Testimony Against: None.

Testified: Mark Cedargreen, Westport Charter Association; Yvonne Pettus, Office of the Administrator for the Courts; and Dayna Matthews, Washington Department of Fish and Wildlife (all in favor).