

# FINAL BILL REPORT

## EHB 2396

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C 207 L 96

Synopsis as Enacted

**Brief Description:** Clarifying wildlife violations relating to game birds, game animals, and game fish.

**Sponsors:** Representatives Fuhrman, Basich and Mastin; by request of Department of Fish and Wildlife.

**House Committee on Natural Resources**  
**Senate Committee on Natural Resources**

**Background:** It is unlawful to hunt, fish, possess, or control a species of game bird, game animal, or game fish during the closed season for that species. It is also unlawful to kill, take, catch, possess, or control a game bird, game animal, or game fish in excess of the bag limit for that species. A violation of this statutory provision, when the violation involves big game, is a gross misdemeanor. Big game is defined by statute and includes whitetail, blacktail, and mule deer. Violations involving species that are not big game (or endangered) are misdemeanors.

The Fish and Wildlife Commission establishes hunting and fishing regulations, which often provide that a season is open for a game animal, game bird, or game fish with certain special restrictions or physical descriptions. Examples are open seasons for antlerless deer, or for buck deer only, or for deer with a minimum number of points on the antlers. When a hunter has violated these types of restrictions, it has been the practice to charge the hunter with unlawful hunting, and, if the species is a big game animal, the penalty has been for a gross misdemeanor.

Recently, a Washington appellate court found that a hunter who violated an antler point restriction was not guilty of a gross misdemeanor. The court ruled that the statute prohibits hunting during a closed season for a species. In this instance, the season was open for mule deer but was limited as to the sex and size of the animal. Only male deer with a minimum of three antler points could be hunted. The court reasoned that because an animal's sex or antler point count does not define whether it belongs to a certain species, the season was not closed to the species of mule deer, and therefore the hunter was not guilty of a violation of the statute. The court found that the hunter had violated the commission's restrictions, which is a misdemeanor.

**Summary:** Open and closed seasons are defined to clarify the Fish and Wildlife Commission's authority to open or close a season to hunting, fishing, or possessing a game animal, game bird, or game fish that conforms to certain special restrictions or

physical descriptions. It is unlawful to hunt, fish, or possess a game animal, game bird, or game fish during the closed season. All reference to species is eliminated. It is also unlawful to exceed the bag limit for game animals, game birds, or game fish. Leg length and bill length may not be considered for Dusky Canada geese for the purposes of determining unlawful hunting, possessing, or bag limit.

The statute is also amended to require a catch record card instead of the previously required punchcard to conduct certain activities.

**Votes on Final Passage:**

House	97	0	
Senate	48	0	(Senate amended)
House	89	0	(House concurred)

**Effective:** June 6, 1996