

HOUSE BILL REPORT

ESSB 6328

As Passed House - Amended:

March 10, 1998

Title: An act relating to fish and wildlife code enforcement.

Brief Description: Enacting the fish and wildlife code enforcement act.

Sponsors: Senate Committee on Natural Resources & Parks (originally sponsored by Senators Oke, Jacobsen and Swecker; by request of Department of Fish and Wildlife).

Brief History:

Committee Activity:

Natural Resources: 2/25/98, 2/27/98 [DPA].

Floor Activity:

Passed House - Amended: 3/6/98, 98-0;

Passed House - Amended: 3/10/98, 94-0.

HOUSE COMMITTEE ON NATURAL RESOURCES

Majority Report: Do pass as amended. Signed by 9 members: Representatives Buck, Chairman; Sump, Vice Chairman; Thompson, Vice Chairman; Alexander; Anderson; Chandler; Eickmeyer; Hatfield and Pennington.

Minority Report: Do not pass. Signed by 2 members: Representatives Regala, Ranking Minority Member; and Butler, Assistant Ranking Minority Member.

Staff: Linda Byers (786-7129).

Background: Enforcement provisions regarding wildlife-related crimes including crimes related to game fish are found in the Wildlife Code. The typical format used in the code is to have one section that indicates that a certain act is unlawful and a different section that identifies the penalty associated with the unlawful act.

Enforcement provisions regarding food fish and shellfish-related crimes are found in the Fisheries Code. The format in this code is the same as the format described above for the Wildlife Code, with an unlawful act identified in one section and penalties identified in other sections.

In addition to the sections identifying unlawful acts and associated penalties, other enforcement-related provisions are scattered through the two codes dealing with topics

such as the revocation or suspension of hunting and fishing privileges, the seizing and forfeiture of property, and searches and inspections.

Summary of Bill: A new chapter in the Wildlife Code contains the enforcement provisions for crimes regarding wildlife, fish, and shellfish. A new format incorporates identification of the crime and the associated punishment into single sections. In addition to merging existing enforcement provisions from the Fisheries Code and the Wildlife Code into the new chapter, numerous additional changes are made to these enforcement provisions; a detailed description is available in the committee bill file for this measure.

Numerous other changes are made which affect enforcement-related provisions dealing with both fish and wildlife. A new section defines that a person acts for "commercial purposes" if the person acts with intent to sell, attempted to sell, sold, bartered, attempted to purchase, or purchased fish or wildlife; uses gear typical of that used in commercial fisheries; exceeds the bag or possession limits for personal use by taking or possessing more than three times the amount of fish or wildlife allowed; delivers or attempts to deliver fish or wildlife to a person who sells or resells fish or wildlife including any licensed or unlicensed wholesaler; or takes fish using a vessel designated on a commercial fishery license and gear not authorized in a personal use fishery.

Unless otherwise provided, fish, shellfish, or wildlife unlawfully taken or possessed or involved in a violation must be forfeited to the state upon conviction. Unless already held by, sold, destroyed, or disposed of by the department, the court must order the fish and wildlife delivered to the department. The department may use, sell, or destroy any other property forfeited by the court or the department. Any sale of other property must be at public auction or after public advertisement reasonably designed to obtain the highest price. Proceeds from the sale are deposited in the wildlife fund.

New sections address the revoking of licenses and the suspension of hunting or fishing privileges. Upon conviction of any violation in the new chapter, the department may revoke any license, tag, or stamp or other permit involved in the violation or held by the person convicted. If any crime in the new chapter is punishable by a suspension of privileges, then the department must issue an order that specifies the privileges suspended and the period when the suspension begins and ends. The department must impose revocation and suspension of privileges upon conviction in the following circumstances: if directed by statute for an offense; if the department finds that actions of the defendant demonstrated a willful or wanton disregard for conservation of fish or wildlife; if a person is convicted twice within ten years for a violation involving big game; if a person is convicted three times in ten years of any violation of recreational hunting or fishing laws or rules; or if a person is convicted twice within five years of a gross misdemeanor or felony involving unlawful commercial fish or shellfish harvesting, buying, or selling. The Fish and Wildlife Commission must revoke all licenses and order a ten-year suspension of all privileges extended under the authority of the department for a person convicted of assault on a fish and wildlife officer or other law enforcement officer if the

officer was on duty at the time of the assault and was enforcing the provisions of the Wildlife Code.

Fish and wildlife officers and ex officio officers may seize without warrant boats, airplanes, vehicles, gear, appliances, or other articles they have probable cause to believe have been used in violation of the new chapter. However, fish and wildlife officers may not seize any item or article, other than for evidence, if under the circumstances it is reasonable to conclude that the violation was inadvertent. The property seized is subject to forfeiture to the state regardless of ownership.

The current authority for wildlife agents to make a reasonable search without warrant is amended to allow fish and wildlife officers to make a reasonable search without warrant of a vessel, container, or conveyances, vehicles, packages, game baskets, game coats, or other receptacles for fish and wildlife, or tents, camps, or similar places which they have reason to believe contain evidence of a violation of law or rules adopted under the Wildlife Code or the Fisheries Code. The officers may seize evidence as needed for law enforcement.

The current authority for wildlife agents to inspect without warrant the premises, wildlife, and records of commercial enterprises operating under the authority of a license or permit issued by the department of any commercial business that sells, stores, transports, or possesses wildlife is amended to allow fish and wildlife officers to inspect without warrant the premises, containers, fishing equipment, fish, and wildlife and records required by the department of any commercial fisher, wholesale dealer or fish buyer, any shipping agent or other person placing or attempting to place fish or wildlife into interstate commerce, any cold storage plant that the department has probable cause to believe contains fish or wildlife, or any taxidermist or fur buyer. Fish and wildlife officers may inspect without warrant the records required by the department of any retail outlet selling fish or wildlife or both, and, if the officers have probable cause to believe a violation of the Wildlife Code or rule of the commission has occurred, they may inspect without warrant the premises, containers, and fish and wildlife of any retail outlet selling fish or wildlife or both.

Appropriation: None.

Fiscal Note: Available.

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

Testimony For (on Engrossed Substitute Senate Bill): The Fish and Wildlife Commission seeks consistent enforcement and criminal provisions. Prosecutors need a fair and consistent system. These changes will serve to expedite court proceedings. Prosecutors who reviewed the bill feel it is an improvement. This will help with law enforcement and protection of fish and wildlife resources. This will allow for more

efficient enforcement when there is a violation. The current codes are archaic. These changes will allow the court administrator to track crimes better. Department of Fish and Wildlife enforcement officers have been waiting for these changes. With the current codes, sometimes prosecutors decide not to prosecute cases because of the difficulty of explaining the provisions in court. Private citizens will be able to pick up the new version and understand it.

Testimony Against: None.

Testified: Bruce Bjork, Don Gatlin, and Ron Peregrin, Department of Fish and Wildlife; and Jay Geck, Office of the Attorney General (all in favor).