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HOUSE BILL 1853

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State of Washington

56th Legislature

1999 Regular Session

By Representatives Clements, Regala and Eickmeyer

Read first time 02/08/1999. Referred to Committee on Natural Resources.

1 AN ACT Relating to the authority of the department of fish and  
2 wildlife to regulate Native American hunting on open and unclaimed  
3 lands; adding new sections to chapter 77.16 RCW; and declaring an  
4 emergency.

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

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 77.16 RCW  
7 to read as follows:

8 The legislature finds that federally recognized Native American  
9 tribes are guaranteed the privilege of hunting on all open and  
10 unclaimed lands within the borders of the state of Washington. This  
11 privilege was originally established through the Stevens treaties and  
12 has been affirmed through subsequent case law.

13 The legislature further finds that it has sovereign authority under  
14 the United States Constitution to regulate hunting in the state of  
15 Washington. The legislature may establish regulations applying to  
16 Native American hunters who hunt on open and unclaimed lands within the  
17 state, regulations that are nondiscriminatory and are reasonable and  
18 necessary for the conservation of wildlife species, as has been  
19 consistently upheld by state and federal courts.

1 The legislature further finds that several federally recognized  
2 Native American tribes regulate the hunting activities of their members  
3 on the open and unclaimed lands of the state. Many tribes have  
4 implemented comprehensive regulations that are effectively enforced by  
5 tribal officers both on and off the reservation. The tribes have  
6 gathered valuable scientific data and information, and manage their  
7 hunting activities in a manner that ensures species conservation.

8 The legislature further finds that the state has a reasonable and  
9 necessary conservation interest in ensuring that the wildlife resources  
10 of the state are not over-harvested. To this end, it is necessary to  
11 ensure that all hunters be regulated by some authority. Regulation by  
12 either state or tribal authorities requires the ability to verify which  
13 hunters are lawful and which are not. It is therefore reasonable and  
14 necessary for conservation purposes that all hunters be licensed either  
15 by the state or by tribes, and that every unlicensed hunter be subject  
16 to enforcement action regardless of whether the hunter is tribal or  
17 nontribal.

18 The legislature further finds that it may establish regulations  
19 which are rationally related to ensuring the public safety and welfare  
20 of the citizenry. A considerable tension has grown between tribal and  
21 nontribal hunters based upon perceptions of fairness and equity held by  
22 both groups. If left unchecked, this tension has the potential to  
23 result in considerable animosity, prejudice, and even violence. This  
24 tension can only be resolved through the uniform and nondiscriminatory  
25 regulation of all hunters.

26 NEW SECTION. **Sec. 2.** A new section is added to chapter 77.16 RCW  
27 to read as follows:

28 (1) The department shall enforce the hunting laws and regulations  
29 of the state on the open and unclaimed lands of the state. The  
30 department shall not enforce such laws and regulations against any  
31 person possessing a hunting license, which includes a picture  
32 identification, and a transportation tag, issued by a federally  
33 recognized Native American tribal authority. In implementing this  
34 section, the department shall not discriminate against tribal hunters  
35 in any way, and shall fully enforce the hunting and conservation laws  
36 of the state.

37 (2) The department shall review all tribal hunting laws and  
38 regulations, and identify any tribal hunting laws and regulations that

1 substantially impede the enforcement of state hunting laws and  
2 regulations. If the department finds that any tribal law or regulation  
3 impedes the enforcement of state hunting laws or regulations, the  
4 department shall notify the tribal hunting authority responsible for  
5 enforcing that tribal law or regulation, indicating the nature of the  
6 impediment. The department shall request a meeting with the tribal  
7 hunting authority, and take all reasonable measures to resolve the  
8 impediment to the enforcement of state hunting laws and regulations.  
9 If the tribal authority does not respond to the request of the  
10 department within sixty days, the department shall enforce the hunting  
11 laws and regulations of the state on the open and unclaimed lands of  
12 the state equally between native and nonnative hunters.

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

15 The attorney general shall assist the department in enforcing all  
16 state laws and regulations reasonably necessary for the conservation of  
17 wildlife species. The attorney general shall apply all state laws and  
18 regulations equally to tribal and nontribal hunters on open and  
19 unclaimed lands within the state, consistent with section 2 of this  
20 act.

21 NEW SECTION. **Sec. 4.** A new section is added to chapter 77.16 RCW  
22 to read as follows:

23 In the event of any act of God or naturally occurring disaster  
24 which causes wildlife species of the state to become excessively  
25 vulnerable to hunting on open and unclaimed lands within the state, the  
26 department shall enforce the laws and regulations of the state against  
27 any person, including members of federally recognized Native American  
28 tribes. The department may not enforce the laws and regulations of the  
29 state against a member of a federally recognized Native American tribe  
30 whose tribe has adopted rules or regulations that govern the situation.

31 NEW SECTION. **Sec. 5.** A new section is added to chapter 77.16 RCW  
32 to read as follows:

33 At the request of tribal elders, if a hunting offense not  
34 proscribed by the laws of the United States is committed by a nontribal  
35 hunter on the reservation of a federally recognized Native American

1 tribe, the offense is subject to the same penalties provided under  
2 chapter 77.15 RCW.

3 NEW SECTION. **Sec. 6.** This act is necessary for the immediate  
4 preservation of the public peace, health, or safety, or support of the  
5 state government and its existing public institutions, and takes effect  
6 immediately.

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