
SENATE BILL 6320

State of Washington

56th Legislature

2000 Regular Session

By Senators Morton, Oke, Rasmussen, Sellar and Swecker

Read first time 01/13/2000. Referred to Committee on Natural Resources, Parks & Recreation.

1 AN ACT Relating to harvest management of stocks of anadromous
2 salmonids; amending RCW 75.08.012, 77.04.055, and 77.12.010; adding new
3 sections to chapter 75.08 RCW; and creating new sections.

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

5 NEW SECTION. **Sec. 1.** The legislature finds there has been a
6 sizeable increase in the number of stocks of salmonids originating in
7 Washington waters that have recently been declared as threatened or
8 endangered by federal agencies under the federal endangered species
9 act. A number of additional stocks of salmonids also are considered as
10 candidates for future listings. Unlike most species that have been
11 placed on the federal endangered species act, salmonids continue to be
12 allowed to be harvested as a sport, for commercial purposes, and for
13 tribal commercial, ceremonial, and subsistence purposes. Such harvests
14 occur throughout the waters of many different governmental
15 jurisdictions, each of whom has an interest in maintaining its share of
16 the catch. The legislature finds that there is tension between
17 preserving and restoring listed stocks and the ability to maintain
18 acceptable levels of harvest in a mixed stock fishery, which results in
19 direct and incidental harvest of these listed stocks of fish.

1 The legislature finds that generally fish reared in hatcheries can
2 sustain a higher rate of harvest than fish that rely on natural
3 spawning. Fish hatcheries have been used, for nearly a century in some
4 regions, as a way to augment the number of salmonids available for
5 harvest. Hatcheries have been used for increasing production when
6 there is insufficient escapement to natural spawning grounds and for
7 mitigation for loss of natural habitat. Because of the extensive use
8 of hatcheries by numerous entities throughout the state for decades, it
9 is frequently difficult to distinguish on a scientific basis between
10 aboriginal native stocks, current natural reproducing stocks, and
11 hatchery stocks some of which are native and other that have been
12 introduced from other areas. Information derived from fish marking
13 programs indicate the amount of straying and intermixing of fish from
14 one watershed with fish in another has been occurring for decades. The
15 extent to which these various fish stocks may have intermixed, as
16 compared to remaining separate and distinct stocks, is not well
17 understood by the various interests that are affected by the
18 consequences of various recovery strategies for listed stocks.

19 The legislature finds that several hundreds of millions of public
20 and private moneys have been spent and likely more will be expended to
21 restore listed stocks of anadromous salmonids. Mechanisms that assure
22 adequate protection of listed and candidate stocks from the impacts of
23 harvest need to be established to assure that restoration efforts will
24 be productive and long lasting. Further, that establishment of such
25 mechanisms are needed to enhance public confidence that these public
26 and private expenditures will not go forward without close monitoring
27 and periodic reporting of verifiable progress.

28 The purpose of this act is to establish policies and strategies
29 necessary to assure that stocks that have been listed or are candidates
30 for listing under the federal endangered species act will be protected
31 from overharvest and restored, while maintaining to the extent
32 possible, the continued harvest of stocks from watersheds with abundant
33 populations.

34 NEW SECTION. **Sec. 2.** A new section is added to chapter 75.08 RCW
35 to read as follows:

36 (1) Each year the department shall identify each anadromous
37 salmonid stock that has been listed as threatened or endangered under
38 the federal endangered species act and also identify those stocks of

1 anadromous salmonids that are candidates for such listing. For each of
2 these identified stocks, the department shall report the best
3 available estimates of the following:

4 (a) The run size of adult fish available for harvest within the
5 stock's migratory range and for spawning escapement;

6 (b) The rate of harvest-induced mortality in the waters of each
7 state and province through which the fish migrate and a delineation of
8 the rate by sports, nontribal commercial, and tribal harvest. Harvest
9 induced mortality shall include such sources as by-catch and hook
10 mortality;

11 (c) The total cumulative rate and number of harvest-induced
12 mortality for each listed and candidate stock;

13 (d) The minimum escapement goal that would be necessary to remove
14 the stock from its endangered or threatened status;

15 (e) The optimal escapement goal that would provide sufficient
16 spawners to use the available spawning and rearing habitat fully; and

17 (f) The number of fish that escaped harvest and continue to migrate
18 through state waterways for spawning.

19 (2) By December 1st of each year, the report shall be compiled.
20 Reports for ensuing years shall have a consistent and well-summarized
21 format to allow for comparability between years to determine the rate
22 of change and whether success is being attained. The report shall be
23 transmitted to the governor, the secretary of the senate, and to the
24 chief clerk of the house of representatives. Copies of the report
25 shall be available to the public upon request at no charge.

26 NEW SECTION. **Sec. 3.** A new section is added to chapter 75.08 RCW
27 to read as follows:

28 All fish reared in state-funded hatcheries and fish reared in
29 mitigation hatcheries approved by the department under RCW 75.20.090,
30 surplus of the operational needs of the hatchery, shall be allowed to
31 continue to spawn under natural conditions and the eggs and sperm from
32 those fish shall not be destroyed pursuant to orders or other
33 requirements of the federal government unless:

34 (1) The order from the federal agency is in writing and is signed
35 by the appropriate federal official;

36 (2) The order has provided clear directions to assure that stocks
37 of fish listed as threatened or endangered will not be accidentally or
38 intentionally directed to be killed and that execution of such order

1 will not constitute a violation of the prohibition on take included in
2 the federal endangered species act;

3 (3) The federal agency order cites the specific federal regulation
4 that contains criteria as to how various stocks of fish are to be
5 distinguished from one another and that surplus hatchery fish,
6 including their eggs and sperm must be destroyed;

7 (4) The basis for the order is genetic testing of scales or other
8 parts of fish that allows accurate placement of stocks of fish into
9 distinct categories;

10 (5) Surplus hatchery-reared fish have been verified to be
11 genetically different than the naturally spawning fish;

12 (6) The stock differentiation is based on sound science and has
13 been subjected to peer review that includes at least three scientists
14 with a high degree of expertise in fish genetics chosen by the
15 department chairs of two state universities' fishery programs. The
16 peer review panel shall write a written report of the findings and
17 conclusions;

18 (7) The number of fish in the population is of an adequate number
19 to adequately restore the run without hatchery augmentation;

20 (8) The evaluation of fish stocks includes an estimate of the
21 extent that various stocks have strayed and the number of years that
22 said stocks have strayed; and

23 (9) The extent that indigenous stocks have intermixed with other
24 indigenous stocks or with other hatchery stocks.

25 NEW SECTION. **Sec. 4.** (1) A study shall be conducted on ways to
26 increase the returns of stocks of anadromous fish listed as threatened
27 or endangered under the federal endangered species act. The goal of
28 the study is to better manage fish harvesting activities and to improve
29 the selectivity of fishing methods to increase returns of stocks with
30 low numbers while allowing the continued harvest of abundant stocks.
31 The study shall consider all the various methods of allowing improved
32 harvest management and selective harvest strategies and associated
33 harvest gear that can serve as an alternative to a full conservation
34 closure that would restrict all fishing activity, including those that
35 have a very small impact on listed stocks.

36 (2) In conducting the study, the department of fish and wildlife
37 may form an advisory committee that includes representatives of major
38 fishing groups and entities with expertise in the topics.

1 (3) The results of the study shall be included in a report to the
2 governor and the legislature by December 1, 2000.

3 NEW SECTION. **Sec. 5.** The state fish and wildlife commission shall
4 establish escapement goals for each stock of anadromous salmonids that
5 has been listed as threatened or endangered under the federal
6 endangered species act and those stocks that have been determined to be
7 candidates for such listing. For each stock there shall be two types
8 of escapement goals: A minimum escapement goal that when reached would
9 qualify the particular stock of fish for removal from the federal
10 listing; and a optimal escapement goal that would allow sufficient fish
11 to fully use the habitat that is currently available.

12 For each stock of fish that does not meet the minimum escapement
13 goal, the commission shall provide for the management of the harvest so
14 that spawning escapement levels are increased by equal amounts in each
15 of the subsequent two life cycles so that the minimum escapement goals
16 are fully achieved and maintained. Progress toward reaching these
17 milestones shall be included in the report required under section 2 of
18 this act.

19 **Sec. 6.** RCW 75.08.012 and 1983 1st ex.s. c 46 s 5 are each amended
20 to read as follows:

21 The department shall preserve, protect, perpetuate and manage the
22 food fish and shellfish in state waters and offshore waters.

23 The department shall conserve the food fish and shellfish resources
24 in a manner that does not impair the resource. In a manner consistent
25 with this goal, the department shall seek to maintain the economic
26 well-being and stability of the fishing industry in the state. In
27 carrying out this policy, the department shall take action to assure
28 that sufficient escapement of stocks of anadromous salmonids listed
29 under the federal endangered species act is achieved consistent with
30 section 5 of this act. The department shall promote orderly fisheries
31 and shall enhance and improve recreational and commercial fishing in
32 this state.

33 **Sec. 7.** RCW 77.04.055 and 1995 1st sp.s. c 2 s 4 are each amended
34 to read as follows:

1 (1) In establishing policies to preserve, protect, and perpetuate
2 wildlife, fish, and wildlife and fish habitat, the commission shall
3 meet annually with the governor to:

4 (a) Review and prescribe basic goals and objectives related to
5 those policies; and

6 (b) Review the performance of the department in implementing fish
7 and wildlife policies.

8 The commission shall maximize fishing, hunting, and outdoor
9 recreational opportunities compatible with healthy and diverse fish and
10 wildlife populations. In carrying out this policy, the commission
11 shall take action to assure that sufficient escapement of stocks of
12 anadromous salmonids listed under the federal endangered species act is
13 achieved consistent with section 5 of this act.

14 (2) The commission shall establish hunting, trapping, and fishing
15 seasons and prescribe the time, place, manner, and methods that may be
16 used to harvest or enjoy game fish and wildlife.

17 (3) The commission shall establish provisions regulating food fish
18 and shellfish as provided in RCW 75.08.080.

19 (4) The commission shall have final approval authority for tribal,
20 interstate, international, and any other department agreements relating
21 to fish and wildlife.

22 (5) The commission shall adopt rules to implement the state's fish
23 and wildlife laws.

24 (6) The commission shall have final approval authority for the
25 department's budget proposals.

26 (7) The commission shall select its own staff and shall appoint the
27 director of the department. The director and commission staff shall
28 serve at the pleasure of the commission.

29 **Sec. 8.** RCW 77.12.010 and 1985 c 438 s 1 are each amended to read
30 as follows:

31 Wildlife is the property of the state. The department shall
32 preserve, protect, and perpetuate wildlife. Game animals, game birds,
33 and game fish may be taken only at times or places, or in manners or
34 quantities as in the judgment of the commission maximizes public
35 recreational opportunities without impairing the supply of wildlife.
36 In carrying out this policy, the department shall take action to assure
37 that sufficient escapement of stocks of anadromous salmonids listed

1 under the federal endangered species act is achieved consistent with
2 section 5 of this act.

3 The commission shall not adopt rules that categorically prohibit
4 fishing with bait or artificial lures in streams, rivers, beaver ponds,
5 and lakes except that the commission may adopt rules and regulations
6 restricting fishing methods upon a determination by the director that
7 an individual body of water or part thereof clearly requires a fishing
8 method prohibition to conserve or enhance the fisheries resource or to
9 provide selected fishing alternatives. The commission shall attempt to
10 maximize the public recreational fishing opportunities of all citizens,
11 particularly juvenile, handicapped, and senior citizens.

12 Nothing contained herein shall be construed to infringe on the
13 right of a private property owner to control the owner's private
14 property.

15 NEW SECTION. **Sec. 9.** If any provision of this act or its
16 application to any person or circumstance is held invalid, the
17 remainder of the act or the application of the provision to other
18 persons or circumstances is not affected.

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