

CERTIFICATION OF ENROLLMENT

**SUBSTITUTE SENATE BILL 5638**

56th Legislature  
1999 Regular Session

Passed by the Senate April 21, 1999  
YEAS 43 NAYS 0

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**President of the Senate**

Passed by the House April 6, 1999  
YEAS 93 NAYS 0

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**Speaker of the  
House of Representatives**

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**Speaker of the  
House of Representatives**

Approved

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**Governor of the State of Washington**

CERTIFICATE

I, Tony M. Cook, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 5638** as passed by the Senate and the House of Representatives on the dates hereon set forth.

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**Secretary**

FILED

**Secretary of State  
State of Washington**

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**SUBSTITUTE SENATE BILL 5638**

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AS AMENDED BY THE HOUSE

Passed Legislature - 1999 Regular Session

**State of Washington                      56th Legislature                      1999 Regular Session**

**By** Senate Committee on Natural Resources, Parks & Recreation  
(originally sponsored by Senators Hargrove, Oke, Morton and T. Sheldon;  
by request of Department of Fish and Wildlife)

Read first time 02/26/1999.

1            AN ACT Relating to making corrections to the fish and wildlife  
2 enforcement code; amending RCW 77.15.030, 77.15.400, 77.15.410,  
3 77.15.430, 77.15.170, 77.15.230, 77.15.460, 77.15.600, 77.15.190,  
4 77.15.550, 77.15.670, and 77.16.070; and repealing RCW 77.15.200, and  
5 77.32.094.

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

7            **Sec. 1.** RCW 77.15.030 and 1998 c 190 s 4 are each amended to read  
8 as follows:

9            Where it is unlawful to hunt, take, fish, ~~((or))~~ possess, or  
10 traffic in big game or protected or endangered fish or wildlife, then  
11 each individual animal unlawfully taken or possessed is a separate  
12 offense.

13            **Sec. 2.** RCW 77.15.400 and 1998 c 190 s 9 are each amended to read  
14 as follows:

15            (1) A person is guilty of unlawful hunting of ~~((game))~~ wild birds  
16 in the second degree if the person:

1 (a) Hunts for, takes, or possesses a ~~((game))~~ wild bird and the  
2 person does not have and possess all licenses, tags, stamps, and  
3 permits required under this title;

4 (b) Maliciously destroys, takes, or harms the eggs or nests of a  
5 game bird except when authorized by permit; ~~((or))~~

6 (c) Violates any rule of the commission or director regarding  
7 seasons, bag or possession limits but less than two times the bag or  
8 possession limit, closed areas ~~((including game reserves))~~, closed  
9 times, or other rule addressing the manner or method of hunting or  
10 possession of ~~((game))~~ wild birds; or

11 (d) Possesses a wild bird taken during a closed season for that  
12 wild bird or taken from a closed area for that wild bird.

13 (2) A person is guilty of unlawful hunting of ~~((game))~~ wild birds  
14 in the first degree if the person ~~((hunts game birds and the person))~~  
15 takes or possesses two times or more than the possession or bag limit  
16 for ~~((such))~~ game birds allowed by rule of the commission or director.

17 (3)(a) Unlawful hunting of ~~((game))~~ wild birds in the second degree  
18 is a misdemeanor.

19 (b) Unlawful hunting of ~~((game))~~ wild birds in the first degree is  
20 a gross misdemeanor.

21 **Sec. 3.** RCW 77.15.410 and 1998 c 190 s 10 are each amended to read  
22 as follows:

23 (1) A person is guilty of unlawful hunting of big game in the  
24 second degree if the person:

25 (a) Hunts for, takes, or possesses big game and the person does not  
26 have and possess all licenses, tags, or permits required under this  
27 title; ~~((or))~~

28 (b) Violates any rule of the commission or director regarding  
29 seasons, bag or possession limits, closed areas including game  
30 reserves, closed times, or any other rule governing the hunting,  
31 taking, or possession of big game; or

32 (c) Possesses big game taken during a closed season for that big  
33 game or taken from a closed area for that big game.

34 (2) A person is guilty of unlawful hunting of big game in the first  
35 degree if the person was previously convicted of any crime under this  
36 title involving unlawful hunting, killing, possessing, or taking big  
37 game, and within five years of the date that the prior conviction was  
38 entered the person:

1        (a) Hunts for big game and  
2        ~~(a) The person~~) does not have and possess all licenses, tags, or  
3 permits required under this title; ~~((or))~~

4        ~~((The act was))~~ Acts in violation of any rule of the commission  
5 or director regarding seasons, bag or possession limits, closed areas  
6 including game reserves, or closed times; or

7        (c) Possesses big game taken during a closed season for that big  
8 game or taken from a closed area for that big game.

9        (3)(a) Unlawful hunting of big game in the second degree is a gross  
10 misdemeanor.

11        (b) Unlawful hunting of big game in the first degree is a class C  
12 felony. Upon conviction, the department shall revoke all licenses or  
13 tags involved in the crime and the department shall order the person's  
14 hunting privileges suspended for two years.

15        **Sec. 4.** RCW 77.15.430 and 1998 c 190 s 11 are each amended to read  
16 as follows:

17        (1) A person is guilty of unlawful hunting of ~~((game))~~ wild animals  
18 in the second degree if the person:

19        (a) Hunts for, takes, or possesses a ~~((game))~~ wild animal that is  
20 not classified as big game, and does not have and possess all licenses,  
21 tags, or permits required by this title; ~~((or))~~

22        (b) Violates any rule of the commission or director regarding  
23 seasons, bag or possession limits but less than two times the bag or  
24 possession limit, closed areas including game reserves, closed times,  
25 or other rule addressing the manner or method of hunting or possession  
26 of ~~((game))~~ wild animals not classified as big game; or

27        (c) Possesses a wild animal that is not classified as big game  
28 taken during a closed season for that wild animal or from a closed area  
29 for that wild animal.

30        (2)~~((a))~~ A person is guilty of unlawful hunting of ~~((game))~~ wild  
31 animals in the first degree if the person ~~((hunts a game animal that is~~  
32 ~~not classified as big game; and~~

33        ~~(b) The person~~) takes or possesses two times or more than the  
34 possession or bag limit for ~~((such game))~~ wild animals that are not  
35 classified as big game animals as allowed by rule of the commission or  
36 director.

37        (3)(a) Unlawful hunting of ~~((game))~~ wild animals in the second  
38 degree is a misdemeanor.

1 (b) Unlawful hunting of (~~game~~) wild animals in the first degree  
2 is a gross misdemeanor.

3 **Sec. 5.** RCW 77.15.170 and 1998 c 190 s 21 are each amended to read  
4 as follows:

5 (1) A person is guilty of waste of fish and wildlife in the second  
6 degree if:

7 (a) The person kills, takes, or possesses fish, shellfish, or  
8 wildlife and the value of the fish, shellfish, or wildlife is greater  
9 than twenty dollars but less than two hundred fifty dollars; and

10 (b) The person recklessly allows such fish, shellfish, or wildlife  
11 to be wasted.

12 (2) A person is guilty of waste of fish and wildlife in the first  
13 degree if:

14 (a) The person kills, takes, or possesses (~~food~~) fish, shellfish,  
15 (~~game fish, game birds,~~) or (~~game animals~~) wildlife having a value  
16 of two hundred fifty dollars or more or wildlife classified as big  
17 game; and

18 (b) The person recklessly allows such fish, shellfish, or wildlife  
19 to be wasted.

20 (3)(a) Waste of fish and wildlife in the second degree is a  
21 misdemeanor.

22 (b) Waste of fish and wildlife in the first degree is a gross  
23 misdemeanor. Upon conviction, the department shall revoke any license  
24 or tag used in the crime and shall order suspension of the person's  
25 privileges to engage in the activity in which the person committed  
26 waste of fish and wildlife in the first degree for a period of one  
27 year.

28 (4) It is prima facie evidence of waste if a processor purchases or  
29 engages a quantity of food fish, shellfish, or game fish that cannot be  
30 processed within sixty hours after the food fish, game fish, or  
31 shellfish are taken from the water, unless the food fish, game fish, or  
32 shellfish are preserved in good marketable condition.

33 **Sec. 6.** RCW 77.15.230 and 1998 c 190 s 26 are each amended to read  
34 as follows:

35 (1) A person is guilty of unlawful use of department lands or  
36 facilities if the person enters upon, uses, or remains upon department\_

1 owned or department-controlled lands or facilities in violation of any  
2 rule of the department.

3 (2) Unlawful use of department lands or facilities is a  
4 misdemeanor.

5 **Sec. 7.** RCW 77.15.460 and 1998 c 190 s 28 are each amended to read  
6 as follows:

7 (1) A person is guilty of unlawful possession of a loaded firearm  
8 in a motor vehicle if:

9 (a) The person carries, transports, conveys, possesses, or controls  
10 a rifle or shotgun in or on a motor vehicle; and

11 (b) The rifle or shotgun contains shells or cartridges in the  
12 magazine or chamber, or is a muzzle-loading firearm that is loaded and  
13 capped or primed.

14 (2) A person is guilty of unlawful use of a loaded firearm if the  
15 person negligently shoots a firearm from, across, or along the  
16 maintained portion of a public highway.

17 (3) Unlawful possession of a loaded firearm in a motor vehicle or  
18 unlawful use of a loaded firearm is a misdemeanor.

19 (4) This section does not apply if the person:

20 (a) Is a law enforcement officer who is authorized to carry a  
21 firearm and is on duty within the officer's respective jurisdiction;

22 (b) Possesses a disabled hunter's permit as provided by RCW  
23 77.32.237 and complies with all rules of the department concerning  
24 hunting by persons with disabilities.

25 (5) For purposes of this section, a firearm shall not be considered  
26 loaded if the detachable clip or magazine is not inserted in or  
27 attached to the firearm.

28 **Sec. 8.** RCW 77.15.600 and 1998 c 190 s 32 are each amended to read  
29 as follows:

30 (1) A person is guilty of engaging in commercial wildlife activity  
31 without a license if the person:

32 (a) Deals in raw furs for commercial purposes and does not hold a  
33 fur dealer license required by chapter 77.32 RCW; or

34 (b) Practices taxidermy for ~~((profit))~~ commercial purposes and does  
35 not hold a taxidermy license required by chapter 77.32 RCW~~((+or~~

36 ~~(c) Operates a game farm without a license required by chapter~~  
37 ~~77.32 RCW))~~.

1 (2) Engaging in commercial wildlife activities without a license is  
2 a gross misdemeanor.

3 **Sec. 9.** RCW 77.15.190 and 1998 c 190 s 34 are each amended to read  
4 as follows:

5 (1) A person is guilty of unlawful trapping if the person:

6 (a) Sets out traps that are capable of taking wild animals, game  
7 animals, or furbearing mammals and does not possess all licenses, tags,  
8 or permits required under this title; ~~((or))~~

9 (b) Violates any rule of the commission or director regarding  
10 seasons, bag or possession limits, closed areas including game  
11 reserves, closed times, or any other rule governing the trapping of  
12 wild animals; or

13 (c) Fails to identify the owner of the traps or devices by neither  
14 (i) attaching a metal tag with the owner's department-assigned  
15 identification number or the name and address of the trapper legibly  
16 written in numbers or letters not less than one-eighth inch in height  
17 nor (ii) inscribing into the metal of the trap such number or name and  
18 address.

19 (2) Unlawful trapping is a misdemeanor.

20 **Sec. 10.** RCW 77.15.550 and 1998 c 190 s 40 are each amended to  
21 read as follows:

22 (1) A person is guilty of violating commercial fishing area or time  
23 in the second degree if the person acts for commercial purposes and  
24 takes, fishes for, possesses, delivers, or receives food fish or  
25 shellfish:

26 (a) At a time not authorized by statute or rule; ~~((or))~~

27 (b) From an area that was closed to the taking of such food fish or  
28 shellfish for commercial purposes by statute or rule; or

29 (c) If such fish or shellfish do not conform to the special  
30 restrictions or physical descriptions established by rule of the  
31 department.

32 (2) A person is guilty of violating commercial fishing area or time  
33 in the first degree if the person commits the act described by  
34 subsection (1) of this section and:

35 (a) The person acted with knowledge that the area or time was not  
36 open to the taking or fishing of food fish or shellfish for commercial  
37 purposes; and

1 (b) The violation involved two hundred fifty dollars or more worth  
2 of food fish or shellfish.

3 (3)(a) Violating commercial fishing area or time in the second  
4 degree is a gross misdemeanor.

5 (b) Violating commercial fishing area or time in the first degree  
6 is a class C felony.

7 **Sec. 11.** RCW 77.15.670 and 1998 c 190 s 60 are each amended to  
8 read as follows:

9 (1) A person is guilty of ~~((unlawful hunting or fishing when))~~  
10 violating a suspension of department privileges ((are revoked or  
11 suspended)) in the second degree if the person ~~((hunts or fishes and~~  
12 ~~the person's privilege to engage in such hunting or fishing))~~ engages  
13 in any activity that is licensed by the department and the person's  
14 privileges to engage in that activity were revoked or suspended by any  
15 court or the department.

16 (2) A person is guilty of ~~((unlawful hunting or fishing when))~~  
17 violating a suspension of department privileges ((are revoked or  
18 suspended)) in the first degree if the person commits the act described  
19 by subsection (1) of this section and:

20 (a) The suspension of privileges that was violated was a permanent  
21 suspension;

22 (b) The person takes or possesses more than two hundred fifty  
23 dollars' worth of unlawfully taken food fish, wildlife, game fish,  
24 seaweed, or shellfish; or

25 (c) The violation involves the hunting, taking, or possession of  
26 fish or wildlife classified as endangered or threatened or big game.

27 (3)(a) ~~((Unlawful hunting or fishing when))~~ Violating a suspension  
28 of department privileges ((are revoked or suspended)) in the second  
29 degree is a gross misdemeanor. Upon conviction, the department shall  
30 order permanent suspension of the person's privileges to engage in such  
31 hunting or fishing activities.

32 (b) ~~((Unlawful hunting or fishing when))~~ Violating a suspension of  
33 department privileges ((are revoked or suspended)) in the first degree  
34 is a class C felony. Upon conviction, the department shall order  
35 permanent suspension of all privileges to hunt, fish, trap, or take  
36 wildlife, food fish, or shellfish.

37 (4) As used in this section, hunting includes trapping with a  
38 trapping license.



1       **Sec. 12.** RCW 77.16.070 and 1980 c 78 s 75 are each amended to read  
2 as follows:

3       (~~It is unlawful to hunt~~) (1) A person is guilty of hunting while  
4 under the influence of intoxicating liquor or drugs if the person hunts  
5 wild animals or wild birds while under the influence of intoxicating  
6 liquor or drugs.

7       (2) Hunting while under the influence of intoxicating liquor or  
8 drugs is a gross misdemeanor.

9       NEW SECTION.   **Sec. 13.** The following acts or parts of acts are  
10 each repealed:

11       (1) RCW 77.15.200 (Furbearing animal traps--Failure to identify--  
12 Penalty) and 1998 c 190 s 23; and

13       (2) RCW 77.32.094 (Validity of licenses issued by department of  
14 fisheries and department of wildlife) and 1994 c 255 s 14.

--- END ---