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**SUBSTITUTE HOUSE BILL 2426**

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**State of Washington**

**57th Legislature**

**2002 Regular Session**

**By** House Committee on Natural Resources (originally sponsored by Representatives Jackley, Sump, Rockefeller, Doumit, Pearson, Morell and Chase)

Read first time 01/25/2002. Referred to Committee on .

1 AN ACT Relating to acting for commercial purposes under the fish  
2 and wildlife code; amending RCW 77.15.110; creating a new section; and  
3 prescribing penalties.

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

5 NEW SECTION. **Sec. 1.** The legislature intends to clarify that when  
6 a crime under chapter 77.15 RCW requires proof that a person acted for  
7 commercial purposes, that element refers to engaging in particular  
8 conduct that is commercial in nature and the element does not imply  
9 that a particular state of mind must exist. This act revises the  
10 existing definition of that element to confirm that the element is  
11 fulfilled by engaging in commercial conduct and to eliminate any  
12 implication that a particular mental state of mind must be shown.  
13 Examples are given of the type of conduct that may be considered as  
14 evidence that a person acts for a commercial purpose; however, these  
15 examples do not create a conclusive presumption that a person acts for  
16 a commercial purpose.

17 **Sec. 2.** RCW 77.15.110 and 2001 c 253 s 27 are each amended to read  
18 as follows:

1 (1) For purposes of this chapter, a person acts for commercial  
2 purposes if the person engages in conduct that relates to commerce in  
3 fish, seaweed, shellfish, or wildlife or any parts thereof. Commercial  
4 conduct may include taking, delivering, selling, buying, or trading  
5 fish, seaweed, shellfish, or wildlife where there is present or future  
6 exchange of money, goods, or any valuable consideration. Evidence that  
7 a person acts for commercial purposes includes, but is not limited to,  
8 the following conduct:

9 (~~(a) ((Acts with intent to sell, attempted to sell, sold, bartered,~~  
10 ~~attempted to purchase, or purchased fish, seaweed, shellfish, or~~  
11 ~~wildlife;~~

12 (~~(b) Uses~~) Using gear typical of that used in commercial fisheries;

13 (~~((c) Exceeds~~) (b) Exceeding the bag or possession limits for  
14 personal use by taking or possessing more than three times the amount  
15 of fish, seaweed, shellfish, or wildlife allowed;

16 (~~((d) Delivers or attempts~~) (c) Delivering or attempting to  
17 deliver fish, seaweed, shellfish, or wildlife to a person who sells or  
18 resells fish, seaweed, shellfish, or wildlife including any licensed or  
19 unlicensed wholesaler;

20 (~~((e) Takes~~) (d) Taking fish or shellfish using a vessel  
21 designated on a commercial fishery license (~~(and)~~) or using gear not  
22 authorized in a personal use fishery;

23 (~~((f) Sells or deals~~) (e) Using a commercial fishery license;

24 (f) Selling or dealing in raw furs; or

25 (g) (~~Performs~~) Performing taxidermy service on fish, shellfish,  
26 or wildlife belonging to another person for a fee or receipt of goods  
27 or services.

28 (2) For purposes of this chapter, the value of any fish, seaweed,  
29 shellfish, or wildlife may be proved based on evidence of legal or  
30 illegal sales involving the person charged or any other person, of  
31 offers to sell or solicitation of offers to sell by the person charged  
32 or by any other person, or of any market price for the fish, seaweed,  
33 shellfish, or wildlife including market price for farm-raised game  
34 animals. The value assigned to specific fish, seaweed, shellfish, or  
35 wildlife by RCW 77.15.420 may be presumed to be the value of such fish,  
36 seaweed, shellfish, or wildlife. It is not relevant to proof of value  
37 that the person charged misrepresented that the fish, seaweed,  
38 shellfish, or wildlife was taken in compliance with law if the fish,

1 seaweed, shellfish, or wildlife was unlawfully taken and had no lawful  
2 market value.

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