
HOUSE BILL 2426

State of Washington

57th Legislature

2002 Regular Session

By Representatives Jackley, Sump, Rockefeller, Doumit, Pearson, Morell and Chase

Read first time 01/16/2002. Referred to Committee on Natural Resources.

1 AN ACT Relating to acting for commercial purposes under the fish
2 and wildlife code; amending RCW 77.15.110, 77.15.500, and 77.15.560;
3 creating a new section; and 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. Furthermore, this act eliminates the element of
17 acting for a commercial purpose from two statutes where it was
18 redundant or unnecessary.

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

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

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

13 ~~(b) Uses))~~ Use of gear typical of that used in commercial
14 fisheries;

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

18 ~~(d) Delivers or attempts))~~ (b) Holding, possessing, taking, or
19 delivering substantially more than the bag or possession limits allowed
20 for personal use of the fish, seaweed, shellfish, or wildlife;

21 (c) Delivering or attempting to deliver fish, seaweed, shellfish,
22 or wildlife to a person who sells or resells fish, seaweed, shellfish,
23 or wildlife including any licensed or unlicensed wholesaler;

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

27 (e) Using or holding a commercial fishery license;

28 ~~((Sells or deals))~~ Selling or dealing in raw furs; or

29 ~~((Performs))~~ Performing taxidermy service on fish, shellfish,
30 or wildlife belonging to another person for a fee or receipt of goods
31 or services.

32 (2) For purposes of this chapter, the value of any fish, shellfish,
33 or wildlife may be proved based on evidence of legal or illegal sales
34 involving the person charged or any other person, of offers to sell or
35 solicitation of offers to sell by the person charged or by any other
36 person, or of any market price for the fish, shellfish, or wildlife
37 including market price for farm-raised game animals. The value
38 assigned to specific fish, shellfish, or wildlife by RCW 77.15.420 may
39 be presumed to be the value of such fish, shellfish, or wildlife. It

1 is not relevant to proof of value that the person charged
2 misrepresented that the fish, shellfish, or wildlife was taken in
3 compliance with law if the fish, shellfish, or wildlife was unlawfully
4 taken and had no lawful market value.

5 **Sec. 3.** RCW 77.15.500 and 2000 c 107 s 248 are each amended to
6 read as follows:

7 (1) A person is guilty of commercial fishing without a license in
8 the second degree if the person fishes for, takes, or delivers food
9 fish, shellfish, or game fish (~~(while acting for commercial purposes)~~)
10 and:

11 (a) The person does not hold a fishery license or delivery license
12 required under chapter 77.65 RCW (~~(for the)~~) to fish for, take, or
13 deliver the food fish or shellfish; or

14 (b) The person is not a licensed operator designated as an
15 alternate operator on a fishery or delivery license under chapter 77.65
16 RCW for the food fish or shellfish.

17 (2) A person is guilty of commercial fishing without a license in
18 the first degree if the person commits the act described by subsection
19 (1) of this section and:

20 (a) The violation involves taking, delivery, or possession of food
21 fish or shellfish with a value of two hundred fifty dollars or more; or

22 (b) The violation involves taking, delivery, or possession of food
23 fish or shellfish from an area that was closed to the taking of such
24 food fish or shellfish by any statute or rule.

25 (3)(a) Commercial fishing without a license in the second degree is
26 a gross misdemeanor.

27 (b) Commercial fishing without a license in the first degree is a
28 class C felony.

29 **Sec. 4.** RCW 77.15.560 and 1998 c 190 s 41 are each amended to read
30 as follows:

31 (1) Except as provided in RCW 77.15.640, a person is guilty of
32 failing to report a commercial fish or shellfish harvest or delivery if
33 the person (~~(acts for commercial purposes and)~~) takes or delivers any
34 fish or shellfish to a fish buyer or fish dealer, or to a person acting
35 for or on behalf of a fish buyer or fish dealer, and the person:

1 (a) Fails to sign a fish-receiving ticket that documents the
2 delivery of fish or shellfish or otherwise documents the taking or
3 delivery; or

4 (b) Fails to report or document the taking, landing, or delivery as
5 required by any rule of the department.

6 (2) Failing to report a commercial fish harvest or delivery is a
7 gross misdemeanor.

8 (3) For purposes of this section, "delivery" of fish or shellfish
9 occurs when there is a transfer or conveyance of title or control from
10 the person who took, fished for, or otherwise harvested the fish or
11 shellfish.

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