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**SENATE BILL 5736**

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**State of Washington**

**57th Legislature**

**2001 Regular Session**

**By** Senators Morton, Oke and Stevens

Read first time 02/01/2001. Referred to Committee on Natural Resources, Parks & Shorelines.

1 AN ACT Relating to increasing salmon to self-sustaining levels;  
2 amending RCW 77.95.210, 77.95.270, 77.100.050, and 77.100.060; and  
3 creating a new section.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that the extensive use  
6 of hatchery fish in this state has left little genetic difference  
7 between native fish stocks and the hatchery fish. The legislature also  
8 finds that because these fish frequently stray from one watershed to  
9 another, the assertion that there are separate and distinct fish stocks  
10 within the state watersheds may not be strongly supported by science.  
11 The legislature further finds that it is necessary to allow returning  
12 salmon to spawn if salmon populations are ever to return to self-  
13 sustaining levels. The purpose of this act is to allow all returning  
14 salmon to spawn, without prejudice to their origin, and to provide  
15 technical assistance to stakeholders in supplementation efforts to  
16 rebuild salmon stocks to self-sustaining levels.

17 **Sec. 2.** RCW 77.95.210 and 2000 c 107 s 11 are each amended to read  
18 as follows:

1       (1) The department may supply, at a reasonable charge, surplus  
2 salmon eggs to a person for use in the cultivation of salmon. The  
3 department shall not intentionally create a surplus of salmon to  
4 provide eggs for sale. The department shall only sell salmon eggs from  
5 stocks that are not suitable for salmon population rehabilitation or  
6 enhancement in state waters in Washington. All sales or transfers  
7 shall be consistent with the department's egg transfer and aquaculture  
8 disease control regulations as now existing or hereafter amended.  
9 Prior to department determination that eggs of a salmon stock are  
10 surplus and available for sale, the department shall assess the  
11 productivity of each watershed that is suitable for receiving eggs.

12       (2) Unless prohibited by a federal agency, the department must make  
13 viable eggs available for propagation in watersheds where  
14 supplementation of fish runs is needed to assist in rebuilding  
15 sustainable populations of fish. The department must give priority to  
16 watersheds that have made habitat restoration improvements in  
17 distributing the eggs.

18       **Sec. 3.** RCW 77.95.270 and 1989 c 336 s 6 are each amended to read  
19 as follows:

20       The department may make available to private contractors salmon  
21 eggs in excess of department hatchery needs for the purpose of contract  
22 rearing to release the smolts into public waters. Providing salmon  
23 eggs to volunteer groups, federally approved Indian tribes, and  
24 governmental hatcheries is the department's highest priority in  
25 providing eggs for propagation. The priority of providing eggs to  
26 contract rearing shall be higher than providing eggs to aquaculture  
27 purposes which are not destined for release into Washington public  
28 waters.

29       **Sec. 4.** RCW 77.100.050 and 1987 c 505 s 73 are each amended to  
30 read as follows:

31       (1) The department shall:

32       (a) Encourage and support the establishment of cooperative  
33 agreements for the development and operation of cooperative food fish,  
34 shellfish, game fish, game bird, game animal, and nongame wildlife  
35 projects, and projects which provide an opportunity for volunteer  
36 groups to become involved in resource and habitat-oriented activities.

1 All cooperative projects shall be fairly considered in the approval of  
2 cooperative agreements;

3 (b) Identify regions and species or activities that would be  
4 particularly suitable for cooperative projects providing benefits  
5 compatible with department goals;

6 (c) Determine the availability of rearing space at operating  
7 facilities or of net pens, egg boxes, portable rearing containers,  
8 incubators, and any other rearing facilities for use in cooperative  
9 projects, and allocate them to volunteer groups as fairly as possible;

10 (d) Make viable eggs available for replenishing fish runs, and  
11 salmon carcasses for nutrient enhancement of streams;

12 (e) Exempt volunteer groups from payment of fees to the department  
13 for activities related to the project;

14 ~~((e))~~ (f) Publicize the cooperative program;

15 ~~((f))~~ (g) Not substitute a new cooperative project for any part  
16 of the department's program unless mutually agreeable to the department  
17 and volunteer group;

18 ~~((g))~~ (h) Not approve agreements that are incompatible with  
19 legally existing land, water, or property rights.

20 (2) The department may, when requested, provide to volunteer groups  
21 its available professional expertise and assist the volunteer group to  
22 evaluate its project. The department must conduct annual workshops in  
23 each administrative region of the department that has fish stocks  
24 listed under the federal endangered species act, 16 U.S.C. Sec. 1531 et  
25 seq., in order to assist volunteer groups with egg rearing, share  
26 information on successful salmon recovery projects accomplished by  
27 volunteers within the state, and provide basic training on monitoring  
28 efforts that can be accomplished by volunteers.

29 **Sec. 5.** RCW 77.100.060 and 2000 c 107 s 112 are each amended to  
30 read as follows:

31 The commission shall establish by rule:

32 (1) The procedure for entering a cooperative agreement and the  
33 application forms for a permit to release fish or wildlife required by  
34 RCW 77.12.457. The procedure shall indicate the information required  
35 from the volunteer group as well as the process of review by the  
36 department. The process of review shall include the means to  
37 coordinate with other agencies and Indian tribes when appropriate and

1 to coordinate the review of any necessary hydraulic permit approval  
2 applications.

3 (2) The procedure for providing within forty-five days of receipt  
4 of a proposal a written response to the volunteer group indicating the  
5 date by which an acceptance or rejection of the proposal can be  
6 expected, the reason why the date was selected, and a written summary  
7 of the process of review. The response should also include any  
8 suggested modifications to the proposal which would increase its  
9 likelihood of approval and the date by which such modified proposal  
10 could be expected to be accepted. If the proposal is rejected, the  
11 department must provide in writing the reasons for rejection. The  
12 volunteer group may request the director or the director's designee to  
13 review information provided in the response.

14 (3) The priority of the uses to which eggs, seed, juveniles, or  
15 brood stock are put. The rules must prohibit the destruction of  
16 hatchery origin salmon for the purposes of destroying viable eggs that  
17 could be used for salmon propagation in watersheds in which volunteer  
18 groups have expressed an interest in entering into a cooperative  
19 agreement for rearing eggs to assist with salmon recovery. Use by  
20 cooperative projects shall be second in priority only to the needs of  
21 programs of the department or of other public agencies within the  
22 territorial boundaries of the state. Sales of eggs, seed, juveniles,  
23 or brood stock have a lower priority than use for cooperative projects.

24 (4) The procedure for the director to notify a volunteer group that  
25 the agreement for the project is being revoked for cause and the  
26 procedure for revocation. Revocation shall be documented in writing to  
27 the volunteer group. Cause for revocation may include: (a) The  
28 unavailability of adequate biological or financial resources; (b) the  
29 development of unacceptable biological or resource management  
30 conflicts; or (c) a violation of agreement provisions. Notice of cause  
31 to revoke for a violation of agreement provisions may specify a  
32 reasonable period of time within which the volunteer group must comply  
33 with any violated provisions of the agreement.

34 (5) An appropriate method of distributing among volunteer groups  
35 fish, bird, or animal food or other supplies available for the program.

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