

1 **ESSB 5375** - H AMD TO APP COMM AMD (H2764.2)
2 By Representative Upthegrove

3 On page 22, beginning on line 1 of the amendment, strike
4 section 701 and insert the following:

5 "NEW SECTION. **Sec. 701.** A new section is added to chapter
6 77.55 RCW to read as follows:

7 (1) If any person or government agency fails to follow the
8 requirements of obtaining a permit under this chapter or fails to
9 carry out any of the requirements or conditions of a permit issued
10 under this chapter, the department may issue an order to that
11 person or government agency. The order may require the person or
12 government agency to stop work on any or all of the activities
13 subject to the permit, to correct or to restore the nonconforming
14 site, or to both stop work and to correct or to restore the
15 nonconforming site. Within twenty days of service of such an order
16 or as provided by rule of the department extending such time, the
17 person may file a written petition with the department appealing
18 the order, and this petition shall be treated as an application for
19 an adjudicative proceeding under chapter 34.05 RCW. In the event
20 of an appeal, a person or government agency may seek interim relief
21 from an order under this section as provided in chapter 34.05 RCW.

22 (2) The department may adopt rules to designate that certain
23 violations of the terms or conditions of a permit are an infraction
24 to be punished as provided by RCW 77.15.160. Any punishment under
25 chapter 77.15 RCW shall be supplemental to the remedy provided by
26 subsection (1) of this section.

27 **Sec. 702.** RCW 77.15.300 and 2000 c 107 s 239 are each amended
28 to read as follows:

29 (1) A person is guilty of unlawfully undertaking hydraulic
30 project activities if the person:

1 (a) Constructs any form of hydraulic project or performs other
2 work on a hydraulic project and(~~(a~~)
3 ~~(a~~)) fails to have a ((hydraulic project approval)) permit
4 required under chapter 77.55 RCW for such construction or work;
5 (~~or~~)

6 (b) Violates any requirements or conditions of the ((hydraulic
7 ~~project approval~~)) permit for such construction or work;

8 (c) Violates any stop work or correction order issued under
9 section 701 of this act; or

10 (d) Violates any rule governing hydraulic project activities
11 addressed in a pamphlet that serves as a hydraulic permit.

12 (2) Unlawfully undertaking hydraulic project activities is a
13 gross misdemeanor."

14 Renumber remaining sections consecutively and correct any
15 internal references accordingly.

16 On page 28, line 26 of the amendment, strike "RCW 77.55.140"

17 On page 34, beginning on line 32 of the amendment, after "2;"
18 strike all material through "6." on line 35 of the amendment and
19 insert the following:

20 "(3) RCW 77.55.140 (Hydraulic projects--Civil penalty) and 2000
21 c 107 s 19, 1993 sp.s. c 2 s 35, 1988 c 36 s 35, & 1986 c 173 s 6;
22 and

23 (4) RCW 77.55.190 (Processing of permits or authorizations for
24 emergency water withdrawal and facilities to be expedited) and 1989
25 c 171 s 8 & 1987 c 343 s 6."

26 Correct the title.

EFFECT: Authorizes the Department of Fish and Wildlife (DFW)
to issue stop work orders to individuals failing to obtain or
follow the conditions of a hydraulic permit. The DFW may also
require corrective action to restore the nonconforming site.

Establishes violations of a stop work order, a correction order, or a rule governing a hydraulic project activity in a pamphlet as a gross misdemeanor. Authorizes the DFW to adopt rules to designate certain violations of the hydraulic permit as natural resource infractions. Repeals authority for the DFW to levy civil penalties for violations of any provisions of a hydraulic permit.